FINANCE OF OVERSEA TRADE

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PREFACE

A PREFACE may be written for various reasons. *Inter alia*, it may include some introductory remarks which do not fit conveniently into any chapter of the work itself, it forms a convenient repository for acknowledgments and thanks for help the author has received, it may record the particular urge which led him into his venture or it may seek to show, in the case of a textbook, how the book fits into the general *corpus* of literature on the topic it covers.

My preface has none of these objects. It is written in the firm conviction, based on many years of experience, that few students read the preface anyway. The critics may, however, and so will the author's friends.

Will my critics please remember that I aim here to present a brief and clear account of oversea trade financing, for the benefit of two classes of student. The one will need to grasp the elements of the subject so as to get the best from the financial mechanism whilst not activating it directly. The other is studying with a view to more direct practice, and is therefore in need of a sound grasp of elementary principle plus an indication of where the complications are likely to arise. Putting the same thing another way, one might say I seek to equip my reader with the all-important ability to recognize and enunciate the questions he wants to ask and to understand the answers he gets from the experts in the realms of banking practice, legal matters, exchange control developments and politico-economic topics in so far as they affect (or are affected by) the day-to-day conduct of trade financing. I want to lead the horse to the water—he must dodge his own tadpoles.

When working in the Foreign Department of the National Bank, Ltd., it was my good fortune to be awarded the "Institute Prize" of the Institute of Bankers, for a thesis on international trade financing. This was, with slight amendments, published in 1937 under the title "Practice and Finance

of Foreign Trade." The occasion of publication of this, the second edition, has been taken to change the title in a manner which I believe my fellow-exporters will regard as an improvement.

London, W.1.
July, 1948.

W. W. SYRETT.

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CHAPTER I

PARTIES ENGAGED IN INTERNATIONAL TRADE

THE movement of merchandise across national frontiers is by no means a simple affair: it is a complex business handled by a variety of parties, many of them operating in a manner by no means clearly defined either in law or in practice. However, it is not particularly difficult to separate these various trading units into appropriate groups according to the nature of their operations, and to distinguish their types of activity with some degree of clarity.

The Merchant

Traditionally, the lion's share in world trade development has arisen from the qualities of courage and initiative displayed by the merchant. His operations are entered upon, on both the buying and the selling side, as a principal and not as an agent. Thus he buys on his own responsibility from producers of all kinds—farmers, fishermen, manufacturers, and those engaged in extractive industry. On the other hand, according to the stage at which he comes into the chain of distribution, he sells as a principal to various buyers (being either wholesalers, or retailers who resell to final consumers), or to the kind of party who can only be called a "consumer" in the sense that the merchandise consists of some raw material or semi-manufactured product required for a further stage in the chain of production.

In common with the merchant engaged in home trade, so the international merchant may concentrate on some range of products which are sold by sample or specification, or he may confine himself to branded goods, or he may buy and sell some of each. It is common experience that the wine-merchant in any row of local shops probably deals in several beers, wines, and spirits, labelled with names or brands well known to the public: he may carry on his shelves some lesser-known

proprietary lines, but seldom deals in merchandise which is not more-or-less known to the man in the street by reason of long experience or skilful publicity. The greengrocer is a merchant of quite a different sort in the sense that the wares he sells are bought by the public because they can clearly see what they are buying, and the reputation of the shop-keeper stands or falls by his ability to provide the merchandise, which people need, at the right price. Even the greengrocer, however, sometimes fills up his window with branded lines of canned peas or tinned fruit. Nobody can see what is in the tin, so they rely either on the name on the label or on the shop-keeper's recommendation.

Thus there is a parallel between the activities of the merchant engaged in retail home trade and the merchant dealing in the larger quantities and wider ranges of international trade, though with a difference arising from practices in price-fixing where branded goods are concerned. The merchant in home trade in such goods generally conforms to the price and distribution policy laid down by the manufacturer for the whole country, but where a merchant buys products from a manufacturer in this country for marketing in, say, the Middle East, it is most unusual for the manufacturer to have any effective say in the price at which they are sold retail in the shops and bazaars abroad.

There have been a number of logical developments in the merchanting type of organization. To take a parallel from zoology, where the merchant is the "genus," these others are the "species." As a result of more rapid, cheaper, and easier communications, combined with the growth of knowledge of foreign conditions, large manufacturers generally tend to enter the field of distribution and so reduce the scope of the pure merchant-type of firm.

The Manufacturer-Exporter

The tendency of recent years has been for British manufacturers to enter the export field by establishing their own export departments in parallel with, but separate from, their

home sales organizations. In the main the manufacturer-exporter operates through either—

(*a*) distributors established in oversea territories, or

(*b*) his own branches, or wholly-owned subsidiaries, established in the countries where his merchandise is marketed.

Where the first course is followed, the export department appoints so-called "agents" abroad. The world is surveyed with the aid of a good map and by reference to economic and political criteria, and split up into areas. In many cases an appropriate marketing area conforms to the political frontiers of a foreign country. Switzerland is a good example of a country which most manufacturers would consider a separate export "territory." But when it comes to the vast areas of the U.S.A., India, Brazil, and some others, the country can reasonably be "zoned" into several parts each approached through the port which serves it and centred on some town chosen as the economic hub. The size of the territory to be reached from that centre depends on such factors as lines of communication, the geographical area the agent can be expected to cover, the homogeneity of the area climatically, and the extent of sales anticipated. On the other hand, an export territory may include two or more contiguous political states, such as Belgium and Luxembourg, or an even larger area such as Palestine, Transjordan, Syria, and Lebanon. The manufacturer will seek to provide the agent with a sufficiently large market for him to secure a reasonable return for his financial outlay and his services.

The Distributor and the Agent

It is also usual for the agent to be accorded a monopoly within his territory, which means to say that the agent is the *sole* distributor in the named area. By granting such a concession, the manufacturer gives his agent reassurance that the trade resulting from local publicity will not go to a competitor. However, monopoly is not always granted. A manufacturer of

highly specialized products could entertain propositions from several different agents in one oversea country; this brings us to a fundamental difference of function between the agent-distributor and the commission-agent.

With many trades the so-called agent is in law a principal, and it is only because of old-established practice that he is called by a legal misnomer. Oversea agents for British motor-car manufacturers, for example, are expected to purchase for their own account a stock of cars appropriate to the size of the market. They pay for the cars and so, in law, they *own* them; alternatively, they may be given credit by the means explained in Chapter VI, but nevertheless they still make their gross profit from the difference between the contract price they agree to pay the manufacturer and the price at which they sell to the ultimate buyer who comes to their show-rooms.

The Commission Agent

The term "selling-agent" is thus one which requires further definition before it conveys a complete picture of the activity it seeks to describe. It might be better if manufacturers called their agents either "distributors cum stockists" or else "commission agents"; however, this is not often done in practice. The commission agent, by contrast with the distributor, is one who introduces business and is paid a commission on turnover. It is not usual for him to handle the merchandise, though he may give the buyer some assistance in connection with shipping, discharge, transit up-country, and so on.

Some of the merchant houses employ resident commission agents in oversea territories and pay them an agreed percentage on all their exports to the territory. Contracts of agency within this classification are of many different varieties, which it would serve no useful purpose to examine in detail, but they usually conform to the general lines mentioned.

The feature which distinguishes the seller's agent from the other type of activity is that he passes on to his principals the orders as received, that is, in exactly the form in which he receives them. He would not be expected knowingly to pass

orders from insolvent buyers, but, unless stipulated to the contrary when the terms of the agency were agreed, he could not be held responsible if the buyer failed for any reason to meet his commitment.

Exporters, both merchants and manufacturers, sometimes appoint *del credere* agents, who, in addition to securing orders, guarantee the solvency of the buyers they introduce. In such cases the agent is accorded a *del credere* commission in addition to what he earns as seller's agent: if he works on 5 per cent agency commission, he might secure an additional 1½ per cent for the further responsibility undertaken. The percentages quoted are inserted as examples only, and are fixed in any particular case according to the nature of the trade, and the relative bargaining strengths of the parties.

Branches Abroad

As already mentioned, some manufacturers have found it worth while to set up their own selling organizations in oversea territories. Some have gone farther, in special cases, and have set up branch factories. The general practice is then to form a subsidiary company under local laws, with or without local participation in the capitalization. Under the laws of some countries, the British manufacturer has no alternative but to sell a majority of the shares to local shareholders; such laws are framed, of course, to prevent the device now known as "economic exploitation" being operated for ulterior motive by a foreign power.

When a manufacturer sets up a branch or subsidiary abroad to fabricate his goods, he may or may not decide to make use of the established wholesale and retail trade-structure. Much must depend on his view of the efficacy of the existing channels of distribution.

Thus the general heading "branches abroad" includes several possible alternatives. It remains to show how they operate. An oversea branch engaged in selling draws supplies from the manufacturer and markets them locally. Where there is no local factory, it must import them, but where there

is a local factory its main activity consists of selling such output as the local factory can achieve. In the early stages, part of the supply might be drawn from each source in order to achieve an even flow of merchandise.

Some of the merchants also operate branches abroad; indeed, a few of the largest British merchant firms have their head offices in Dominion or Colonial centres, and a branch or branches in the United Kingdom. This is most appropriate where the primary activity of the firm is to market exports of the Colonial produce. Such merchants operate a two-way trade, since they supply imports to the territory to meet its economic needs as well as disposing of its exports.

The Confirming House

When manufacturers appoint sole distributors in oversea territories the usual practice is for them to set up a contract, recorded either—

(*a*) by means of a document, prepared and agreed by their legal advisers, setting out the terms and conditions of the relationship; or

(*b*) by a standard form drawn up by the manufacturer which he requires the proposing distributor to sign; this document is called a "franchise" by the Americans, and the term is creeping into British practice; or

(*c*) by means of an exchange of letters and cables, often leaving a lot of potential complexities to arise at subsequent stages.

It is usual for such agreements to include a clause showing how orders are to be transmitted and paid for. There are several alternatives, such as direct ordering accompanied by cash payment, direct ordering supported by bankers' credit as explained in Chapter VI, or intervention by the "buyer's English agent." It is proposed to enlarge on this last-named alternative in order to show how such buyers' agents operate.

Suppose a manufacturer has appointed a distributor who employs an agent in the U.K., it is usual for such buyer's

agent to be a house of a type which specializes in this particular business. They might originally have worked solely as merchants (in the manner already explained), but in the course of time have collected an oversea clientele of the sole-distributor type of importers. At this stage of their evolution their function is—

(1) To receive "closed indents" from the importers, i.e. orders which name the manufacturer as well as the products.

(2) To pass on these orders to the named manufacturers and add their confirmation, i.e. to assume the responsibility for payment of the trade debt arising from the transaction.

(3) To take delivery of the merchandise from the manufacturer, when ready, and (normally) to arrange shipping and finance. At the time of writing there is a shortage of shipping facilities, and an important part of the present function of the confirming house is to receive advice that merchandise is ready, secure a proper place for it in the queue for shipping opportunities, accept and pass on to the manufacturer the shipowner's "calling forward" instructions, and generally to look after the importer's interests in relation to the transport of the goods. In addition, with a "seller's market" in existence, the confirming house can secure for the importer a fair share of the scarce output of the factories; conversely, when there is an abundant supply of merchandise, a good confirming house can be "choosey" on behalf of its principal and secure for him the latest models, the best of the current flow of goods, the crucial batch of things for which there is a seasonal market, the most appropriate from a colour-range, and so on.

It is not, however, only to oversea importers that the intervention of a confirming house appeals: many manufacturers prefer to deal with them, rather than more directly with the oversea importers of the products. It saves the manufacturer a welter of detailed paper-work, assures him of prompt payment on dispatch, and gives him a party near at hand to whom he can refer on important details of quantity, quality, delivery-dates, methods of packing, publicity in the market, sales-aids, visits to the market, and related matters.

It would be fatally easy, short of practical experience, to suppose that the function of the confirming house is something quite different from that of the merchant. Unfortunately for people who like clear distinctions, most of the merchants also operate on a commission basis—that is, they pass the related orders as received and merely charge a commission on the manufacturer's supply price when they ask their clients for payment. Conversely, few of the firms who operate primarily as indent or confirming houses are averse to securing a *profit* (as opposed to *commission*) as opportunity offers. Thus there is no hard-and-fast dividing line to be drawn between the two types of activity.

The lawyers might be excused if they confused this issue still further. After all, when a confirming house takes up merchandise from a manufacturer, it pays the price of the goods and is legally the owner of the goods. At this stage in the chain of distribution there is nothing to choose between the position of a firm which is nominally acting as a buying agent for an oversea importer, and the merchant who has bought in order to resell to a client abroad. This may be summarized by saying that the term "agent" as used in modern business does not have the same significance as would be accorded to it in legal parlance.

The commission charged by an indent house varies from trade to trade, from market to market, and from one buyer to another. In the trade with the Near East, an informed guess would put the usual commission at 5 per cent on the manufacturer's price, but with exceptions ranging up to 7½ per cent, or occasionally even more. On the other hand, there was at one time rather a scramble for confirming business with Australia and New Zealand, resulting in a cutting of commission rates to 3¾ per cent and even in some cases to 2½ per cent. A really sound Australian or South African buyer can still sometimes get under the 5 per cent mark, but the tendency is for low commission rates to be eliminated again as time goes by.

Questions are often asked regarding the "fair rate to charge" for business of this nature. It must necessarily depend on the

circumstances of each particular case, and the author must, please, be excused the responsibility of adjudicating. There are cases and times when importers oversea switch their orders about between two or three different indent houses in order to set them in competition: this is only possible when the importer is handling a large turnover, and even then he runs the off-setting handicap that he may lose the continuity of attention to his interests, which can be derived from routing all orders consistently through one channel.

In addition to their closed indent business, confirming houses often receive "open indents" from their principals abroad. This means a type of order where the merchandise is of a nature lending itself to clear specification, and the subject of mass-production of fairly standard variety from a number of factories; modern production methods have evolved many articles of this kind, a recent example being plastic beakers. The essence of the open indent is that the product is defined without naming the specific manufacturer or the brand required. The confirming house receiving an order of this type would have to "scout round the market" for supplies of the type required, within any named limit of price, and available at the time required by the importer for delivery. In the majority of cases, delivery is required promptly, which means that the field of choice is sometimes limited.

At one time it was quite usual for indent houses to secure a commission on the insurance of merchandise bought for their oversea clients, and sometimes a deferred rebate on shipping contracts. It is sometimes argued that this practice is justified as providing recompense for all the work put in in securing proper contracts of insurance and affreightment. On the other hand, the confirming house claims to act as the importer's agent against an agreed commission charge, and any additional remuneration savours of "secret commission"; it is thus held by one school of thought that these small additional earnings should only be claimed by the indent house if they are secured with the knowledge and consent (actual or implied) of their principals. Indeed, even the doctrine of

implied consent is possibly untenable. These are matters on which each must form his own opinions; meanwhile, taking a broad view of the whole conduct of trade, practice seems to be changing in the general direction of passing to the importer all commissions received from insurers, and any other odd similar items, leaving the indent house with a clear commission as its gross income from the business.

Some of the indent houses are in a very large way of business, and thus handle a substantial export turnover. Many are old-established and have earned a high reputation. Usually, they operate for a range of principals in various territories abroad, though (like the pure merchants) some of them specialize in certain markets rather than attempt to cover the whole world. Indeed, the practice of ordering through indenters is much more common in trade between the United Kingdom and the Dominions and Colonies than it is in our trade with other markets; this for reasons associated with the economic development of the Empire, which, though interesting, cannot be considered germane to the present study.

The Factor

The term "factor" is one which is often used very loosely and to which a change in precise definition must be applied as a result of recent practical developments. The dictionary defines the factor as one who either—

(1) acts as agent, deputy, or representative, or
(2) one who transacts business for others, on commission.

With the further stages now being interposed between production and marketing, it might be better to define the factor as one who "specializes in marketing." In American practice, manufacturers tend to concentrate on the problems of production and abandon their former practice of controlling marketing as well as manufacturing; thus it is considered good practice for the producer to contract with factors for the whole output of the factories. The factor who takes on contracts of this magnitude obviously assumes far greater responsibilities

than are implied by the original dictionary definition. Such factors do not confine their activities to the home market; they tend to become increasingly important in export spheres.

The use of the term "factor" in this American sense is not yet widespread in the United Kingdom, though it is occasionally employed. The factor represents something more than a merchant, the essence of the distinction arising from his practice (singly, or by group) of buying the whole output of the factory. At the same time, it requires a considerable stretch of the imagination to classify him as merely the "agent" of the manufacturer. At some risk of criticism for being ahead of practical development, one can legitimately leave a place open in the survey of the structure of oversea trade in case the factor should become an important force in U.K. export practice.

Some Interim Conclusions

It is quite common to refer to "merchants and manufacturers" as if they, and they alone, were responsible for keeping the wheels of international trade in motion. The phrase is a piece of convenient mental shorthand. As has been shown, however, many other parties besides merchants and manufacturers must be brought into the picture to make it complete. This chapter represents an attempt to refer to all the parties whose functions are of any importance. It would be fatally easy to suppose that these various parties fall into watertight compartments, whereas they do not. Thus manufacturers may approach some of their markets through sole distributors, other markets through commission agents of one kind or another, others through branches in the territories, and yet others through merchants. Then again, as already remarked, some firms which would be generally regarded as merchants also operate as confirmimg houses representing the oversea buyer for his purchases in the United Kingdom. They might feasibly, on occasion, also sell a manufacturer's products oversea on commission—though this is a possibility rather than a commonplace of practice. Then again, the various

types of agent do not always fall as clearly as they might into one of the fairly distinct groupings. With all these "ifs and buts," however, providing it is remembered that any one given party may operate more than one of the functions enumerated, the relationships of parties in oversea trade are such as to lend themselves to segregation into our distinct divisions.

Ancillary Services

In addition to the parties directly engaged in business abroad, in the sense that they assume primary responsibility for a step or steps in the chain of transactions making up "export," several other types are drawn into the operations with which we are concerned. They provide what may be conveniently called "ancillary services," and may be grouped according to the nature of the facilities they offer.

(*a*) **Inquiry Agents** provide information on parties abroad who offer to serve exporters as agents or distributors, on the merchants who bid for exportable products, and on others with whom exporters are brought into contractual relationship.

(*b*) **Bankers** conduct inquiries on markets and men, offer the financial facilities we shall later examine in some detail, stand as a sort of referee in relation to certain transactions, help their exporting customers to conform to the exchange regulations at home and abroad, and offer a service of "travel cash."

(*c*) **Shipping and Forwarding Agents** look after merchandise in inland transit, arrange shipment, bulk small consignments, secure the clearance of goods through customs, arrange contracts of insurance, and so on. Some of them have expanded in directions where they find their manufacturer-clients require help, as in arranging packing and advising on financial matters.

(*d*) **Insurers** undertake the insurance of merchandise against the various risks incurred as it passes through the different stages to markets abroad.

(*e*) **Various Government Departments and Official Bodies** provide the channels by which inquiries pass to the exporters

best equipped to handle them, and perform various functions associated with the translation of official policy into a concrete flow of marketable supplies. These latter are so diverse, and sometimes so remote from our main topic, that we cannot examine them here in detail.

The above list is, of course, incomplete; shipowners provide ships to carry merchandise to oversea markets, whilst aeroplanes also carry cargo which is of high value in relation to bulk, or where the need for it is particularly urgent. Others could conceivably find a place in an extended list, but the purpose would then be defeated since the object of compiling it is to mention in brief outline those whose activities bring them closest to the financial element in export practice.

The part played by these various ancillaries will, in the main, become more apparent as the reader gets to subsequent chapters.

CHAPTER II

THE SALE OF GOODS

WHEN, in the normal retail trade of any place, buyer and seller meet in the shop or market, an immediate exchange usually takes place: the buyer pays and takes his purchase with him. The two common variants of this simple contract for sale of goods are—

(1) Those where the seller also undertakes to send the goods to the buyer's house.

(2) Those where credit is allowed.

These two points are the subject of a mutual understanding, by which either or both of the additional undertakings involved are tacked on to the simple contract whereby the price is agreed.

Delivery of Goods

(*a*) **Inland.** If the buyer and seller do not meet at some mutually convenient spot, as where goods are ordered by post, or if the goods are too heavy to be carried home by the buyer (e.g. a ton of coal), then the carriage of them must be undertaken by one or other; which one does it usually depends on the normal usage of the particular trade concerned.

(*b*) **Abroad.** Where an order is sent to a country oversea, however, the question of who is to transport the goods is all-important. Oversea trade is very seldom in small lots, for either the goods will be very bulky (e.g. wheat) or else of high value in proportion to physical size (e.g. diamonds) and the transport of them will involve considerable expense. The apples which sell at the greengrocers for threepence each cost the fruit-importer only a penny each in Washington State, U.S.A., or in Tasmania, but it costs him roughly another penny each to bring them to their market here.

Contracts

(*a*) **Inland.** The practice has long been common for the bulky or costly goods to be quoted in trade at stated prices followed by various letters of the alphabet. We are all familiar with the advertisements for British cars at certain prices "F.O.R." followed by the name of the town where they are produced; alternatively the term "ex works" may be employed. Now it would be useless for an intending purchaser of such a car to send a cheque for the price of the model he wished to buy—the car would never reach him. He must do something further; he must go to the works and collect his motor himself, or send an agent; if the price is "ex works" his responsibility commences from the moment he or his chauffeur drives the car through the gates of the factory, and if the price is F.O.R. (Free on rail), he must arrange for the railway company to take over his property at the railway station nearest the works. In other words, he appoints the railway company his agent for the purpose of taking delivery. There is this further point, also of great importance, that as he becomes liable for the car at the points mentioned above, he is also responsible for insuring it from the moment he takes possession.

(*b*) **Abroad.** In oversea trade we find similar cryptic initials in common use; certain recognized duties arise from the adoption of them, both the buyer and seller being bound by long international usage in trade, to which is added certain legal recognition in all the important countries of the world. (Where the laws of particular countries recognize a particular code, not agreeing with that generally accepted, they will be specially mentioned in Chapter III.) Prices of goods quoted by a seller in one country to a possible buyer in another, whether by letter, cable, catalogue, or other offer for sale, must always state how and where delivery is to take place; that is, where the buyer is to take over the property in the goods, if he accepts them at the price offered. If the parties are not of the same mind on this important point, one or other is likely to meet with considerable unexpected expense.

Omissions and misunderstandings as to what was meant when a particular price was quoted and accepted, have on many past occasions led to expensive and needless law suits.

The F.O.B. Contract. The first of the recognized forms of contract to be considered here is the "F.O.B." one. The terms "F.O.B. Seller" and "F.O.B. Buyer" are commonly used, by merchants and lawyers, to mean respectively "The party who has sold goods on the understanding that they were to be FREE ON BOARD" and "The party who has agreed to accept delivery of, and to pay the stipulated price for, these goods if placed FREE ON BOARD." In the letters or cables which preceded the actual agreement, wherein the price was quoted and an offer made and accepted for a particular quantity, a particular port in the country of origin will have been mentioned; thus the seller may have offered some jute at such-and-such a price "F.O.B. Calcutta." If the buyer agrees to the price and the terms, and orders a definite quantity which the seller agrees to deliver, then the duty of that seller is to produce the goods, get them to the port and see they are actually placed on board the vessel which the buyer provides. But whereas the two parties may have exchanged written, signed, and stamped "contracts" for the sale (and if they do not, the law will construe a contract from the letters or cables exchanged) the mere mention of "F.O.B." will bind upon them the duties which are here set out, without either of them having written or signed any separate agreement to undertake those added duties.

When the F.O.B. seller has placed his goods, of the agreed quality and to the agreed quantity, on board the vessel stipulated, his duties cease; his further interest in the deal is but to get paid the amount due to him. The F.O.B. buyer commences to fulfil his side of the contract before the goods are put on the ship, because he must provide that ship. This may sound rather absurd since, amongst the many purchases by buyers oversea, so few ever buy so large a consignment of goods as to require the whole cargo-space of a modern ship. The important point is that the shipping company is asked by

the buyer, or by an agent, acting for him, to place some cargo-space at his disposal in order to carry his goods home. Thus, U.K. manufacturers may quote F.O.B. to oversea distributors. Where the order is confirmed by an indent house, the indent house arranges the contract of affreightment and pays the freight on the buyer's behalf. But if the order is financed by bank credit opened by the distributor, the exporting manufacturer arranges the affreightment on his distributor's behalf.

The buyer will also insure the goods from the time that they are placed on the vessel; if the vessel sinks, or is cast away, or is attacked by an enemy or pirate, that is the buyer's risk. He cannot come back on the F.O.B. seller and claim replacement of the goods on the grounds of non-delivery, for those goods were duly placed in his agent's hands. The method by which this risk is covered is for the F.O.B. buyer to approach an insurance company or Lloyd's underwriter and take out a policy of insurance; he can do this direct or through his indent house, or he can ask the supplier to arrange the matter for him. The method by which the insurance is arranged is explained in detail in Chapter III.

C.I.F. Contract (i.e. " Cost, Insurance, Freight "). By far the larger part of the imports and exports of these islands is arranged on "C.I.F." terms. Here, the seller is responsible for the original cost of the goods in his own country, for placing them on a vessel proceeding to the buyer's port, for payment of the necessary freight to the shipping company for their services in carrying the goods, and for providing the necessary insurance.

It is usual for the price of the goods to be quoted as—

(1) so much per unit quantity;
(2) stated to be C.I.F. terms;
(3) coupled with the name of the port in the buyer's country at which they are to be handed over, otherwise called the "destination port";

e.g. SUGAR "5s. per cwt. C.I.F. Liverpool." In this type of

contract the seller arranges for the policy of insurance and pays the premium to the insurer; the buyer is not concerned with the insurance unless he has neglected to arrange that such cover shall include the "War risk." If he has not mentioned to the seller that the insurance must also extend to this additional risk (brought into prominence by the war of 1939–45) the normal policy does not cover him. He, the buyer, must run the risk himself or take out his own policy. This does not involve insuring against the marine and fire risks again—they are already covered; he merely has to pay a small additional premium for a special policy to cover the shipment against war.

One very important point about the C.I.F. contract is that the exporter retains some measure of control over the merchandise. If the buyer refuses to pay, or becomes insolvent and cannot pay, the seller can say "The shipowner still holds the goods; I shall not let him deliver them to the defaulting buyer." He thus has the right of stoppage *in transitu*, which he puts into effect by instructing the shipping company to hold up delivery of the merchandise.

In order to complete a contract for sale of goods, the seller has to demand payment and tender the documents of title which represent the relative merchandise; the buyer must take those documents, and either pay for them or arrange for payment. Chapter III sets out the documents which will be thus passed from seller to buyer. Meanwhile, the present chapter is incomplete without some reference to the variations of the C.I.F. contract.

C. and F. (" Cost and Freight "). It may be that buyer and seller arrange that the former is to effect the insurance, but the latter is to pay the freight. It does not matter if, after the contract is arranged, the buyer finds that it would be cheaper or otherwise to his advantage for the seller to insure. In that case he can ask the seller to arrange the matter for him as his agent and claim the premium. The important point is that certain known expenses are included in the price which the buyer has to pay, and both parties know where they stand.

The buyer can safely reckon that he is paying a certain price and certain expenses will be extra. In this case it is the insurance, in the case of the next example—

C.I.F. & E. (" Cost, Insurance, Freight, Exchange "). It is the *Exchange* which has been arranged for; on any loss in exchange arising (as in South Africa where they use a "Pound" and a small exchange premium or discount may be quoted) the seller knows that he has to pay or receive the small difference. Thus the buyer is certain that all the expenses, until he takes over the merchandise at his port, will be paid by the other party, the price being net to him at that point in his own kind of "Pounds."

C.I.F. Landed, Duty Paid. Where a United Kingdom exporter is trying to make it as easy as possible for oversea importers to "buy British," he may undertake the responsibilities of landing the goods and paying the duty, including these expenses in his sale price. The additional duties falling on the supplier can be discharged by suitably instructing his resident agent in the territory (if any)—failing that he can get a customs agent to act for him, and such agents can be approached through British shipping and forwarding agents. This type of sale contract is often useful in securing business from buyers up-country in the oversea country, who then have only the responsibility of arranging on-carriage from the port of discharge.

Other Contracts. A number of other variations arise in practice, whereby a banker's charge or some other expense is provided for, but they all have this in common—that the initials attached to the price represent the obligations which the seller is agreeing to incur, and therefrom may arise by custom the rights and obligations of the parties.

As a general rule it is far safer for parties to a contract which imports more than normal C.I.F. obligations, to agree what they mean by those additions. Although the terms "C.I.F. & E." and "C.I.F.C. & I." have been coined, and used, there is sometimes a doubt as to their precise interpretation in regard to the added duties of the seller. The International

Chamber of Commerce recommend that "any element of a quotation additional to the ordinary quotation should be clearly, explicitly, and fully set forth without the use of abbreviation." This particular recommendation occurs amongst their comments on the trade terms of the U.S.A., but its common sense should appeal to traders in touch with other countries.

An example of a fruit contract is given on p. 21, and it may help the reader to trace how the terms of this particular contract would be carried out, both in connection with the delivery of the goods, and also the method by which payment is provided for (Importers' Credits are explained in Chapter VI). Such a contract is signed by the seller and sent to the buyer in duplicate; the buyer retains one copy and sends the other back to the seller, when he has signed it in the bottom left-hand corner.

Delivery by Air

This chapter has, so far, been concerned with the sale of goods which are to be transported by land and/or by sea to ultimate destination. Statistics of modern trade reveal, however, that an increasing flow of export merchandise is travelling by air. Thus it is important to examine the circumstances in which this form of transit is the best alternative, and the rights and duties which then arise as between buyer and seller. The air cargoes offered for freighting in the years immediately following the war have tended to fall into groups, according to their type; these groups are those most convenient for study purposes (i.e. the grouping is not a freight classification for freight contract purposes).

(1) Merchandise urgently required for relief purposes, such as medical supplies or food for famine areas. In this case, freighting may be undertaken by Government or official organizations of some kind and, on occasion, service craft may be employed instead of commercial 'planes.

(2) Cargoes for which speed of delivery is essential because of perishable nature. Though the freight is relatively high,

FRUIT EXPORTERS, INC.

SAN FRANCISCO, CAL.

BUYER: British Fruit Importers, Ltd.

ADDRESS: London. hereinafter called the buyer, has this day bought, and Fruit Exporters, Inc. of San Francisco, Cal., hereinafter called the seller, has this day sold the under-mentioned goods, subject only to terms and conditions stated hereon.

Port of Destination: Liverpool, purchased per cable of 14th July, 19 .

Shipment: from Pacific Port during July, 19.. (seller's option). Route and Type of Stowage: In refrigerated space per s.s. *Fruit Carrier* scheduled to sail from Pacific Coast 26th July, 19 . for Liverpool, via Panama Canal.

Terms of Payment: cabled confirmed credit, operative in San Francisco, to be established by buyers in favour of sellers.

No. of Packages	Size of Packages	Brand	Grade	Variety	Sizes	Price C.I.F. Port named per package
1000	Boxes	"SANFRAN"	U.S. No. 1	Beurre Hardy Pears	120 – 180s.	$3·05 Liverpool

Documents: Seller shall provide: Invoice;
Federal Inspection Certificate;
Insurance Certificate or Policy;
Bill of Lading (Ocean lading for shipment via Panama; thru rail and ocean lading for overland shipments).

Quality and Grading as shown by U.S. Government Inspection Certificate is final.

Force Majeure: Non-fulfilment in whole or part and/or delay in completion of this contract due to crop damage, government restriction, strikes, fires, and/or other causes beyond the control of seller is not cause for cancellation, rejection or damage to buyer.

Insurance: Seller covers Marine Insurance under F.P.A. conditions and when in steamer refrigeration stowage against damage arising from breakdown of ship's refrigerating machinery if for more than 24 hours.

Arbitration: In the event of dispute on points other than those covered by the U.S. Government Inspection Certificate and/or condition on arrival, buyer and seller agree to submit to, and abide by the results of, arbitration to be held in the Port of Destination in accordance with the custom of the Trade, or before the International Apple Association, Rochester, N.Y.

Date: 15th July, 19 ...

Signed for Buyer by .... Signed for Seller by ....

deterioration is avoided; the real comparison would have to be between carriage by air and carriage in refrigerated space by other media. Examples are fruit, spring flowers, and early vegetables.

(3) Commodities having high value relatively to bulk, especially where the saving on the "use of money"—the capital involved—is of sufficient moment to recompense the higher freight charges of air transport. Thus if a cargo of bullion can be carried by air from London to Switzerland in one day, or by sea and land in three days, the interest saved is considerable. Thus the precious metals, industrial diamonds, and gems for jewellery are examples.

(4) Prototypes, patterns, and export samples can often be air-freighted with advantage. Thus, before a manufacturer finalizes on a new design, it is often well worth his while to get prototypes away by air to oversea markets in order that the trade may see them, assess their appeal to the local markets, suggest improvements and/or adjustments to accord with local taste, and try out the product for suitability to local technical conditions. Then, when the prototypes or samples have been agreed, the manufacturer puts on his first production run; the very first batch of products "off the line" can then be flown out to markets for oversea agents and distributors to fill their order-books whilst the bulk shipments are being prepared.

(5) Spare parts for machinery are often urgently required abroad. If a user of a British car, or a British radio, wants to get a spare part out in order to keep his car or radio in operation, it is often worth the manufacturer's while to send the part by airfreight (or airmail if within the weight limit). Even if the manufacturer keeps in the market stocks of the spares likely to be wanted, there is always some part whose breakdown was not foreseen or of which the local stock is exhausted when the demand arises. From the viewpoint of prestige alone, it may even be worth the manufacturer's while to institute this type of service and pay the cost himself.

A factor which should be remembered in all the above

cases is that air cargoes suffer less in the way of rough handling than cargoes by other media: thus a saving can often be made on packing cost, and the insurance premium (e.g. on plastic goods) may be lower.

The most that can so far be said about the duties of the parties is that they tend to follow the practice with sea-borne goods before the introduction of air services. Thus if I quote my oversea buyer a price F.O.B., and he asks me to dispatch by 'plane, the normal rules of conduct will apply—freighting and insurance are at his risk and on his responsibility in every respect. But if a manufacturer quotes a price F.O.B. to his distributor in, say, Burma, and then decides for prestige reasons to dispatch by air, it is up to him to absorb the freight charge himself or approach his distributor for an amicable sharing-arrangement. There have been cases of this type when the oversea distributor has agreed to pay what it would normally cost by sea freight and insurance, and yet others where he has offered 50 per cent of the difference.

Should a supplier in the United Kingdom offer C.I.F., delivery by air, then the responsibilities of the parties are clear. Some caution is to be recommended, however, until a clear-cut practice emerges with the continued growth of air freighting: possibly the best thing for suppliers to do is to define the contract terms with some care before their goods are booked to go by 'plane.

CHAPTER III

DOCUMENTS USED IN OVERSEA TRADE

A MERCHANT or manufacturer who has sold goods to an oversea buyer hands them to a shipping company at his port and is given in exchange a Bill of Lading; if he has sold on C.I.F. terms he takes out a Policy of Insurance; he also makes out an Invoice addressed to the buyer. We will examine these documents in that order.

The Bill of Lading

The Bill of Lading is made out by the "shipper" (i.e. the merchant or manufacturer) or by his shipping and forwarding agent on his behalf. It is made out in a "set," and lodged with the shipowner for signature, which act—accompanied by delivery to the shipper—constitutes technical "issue." Two or three identical bills are issued to the exporter at the time of shipment, and it is clearly stated on each part how many there are in the complete set. Now, if the exporter wishes to send one only out of a set of three to some other party, his covering letter will say: "I enclose 1/3 B/L," meaning "I enclose one part bill of lading out of a set of three." It is common practice amongst traders and bankers to refer to the parts of the set in this manner.

Clause Paramount. Bills of lading issued in Great Britain or Northern Ireland bear as the first of the "Clauses" printed on them, the "Clause Paramount," by which it is stated the carriage of the goods is subject to the terms and conditions of the Carriage of Goods by Sea Act of 1924. Certain laws are embodied in that Act, whose effect is to ensure a simplification of the contract of carriage; it is possible now for exporters to know the risks and liabilities they incur. Other succeeding clauses set out what the ship may do if various things happen (for example, if the goods are refused entry at the port of

destination), how the goods are to be stowed on the ship, and other similar conditions governing their carriage and delivery.

B/L as Acknowledgment. When a particular set of B/L is issued it acknowledges receipt of the goods named; the packages handed over are identified by marks on the outside of the bales, cases, crates, or other form of container, which marks are stamped or branded on the packages by the exporter for that purpose. The shipping company's agent or employee who actually counts the packages as they are handed over to him cannot know what is inside; he receives a certain agreed number of packages which have been fastened, and may be sealed. He is merely concerned with the carriage of those packages and is not concerned with the quantity and quality of the contents. The B/L therefore acknowledges the goods as so many packages and states what the goods are, or purport to be, in somewhat guarded terms; example—"50 cases DECLARED AS . . ."

Contract of Carrier. Besides being an acknowledgment of the goods, the B/L is evidence of the contract of their carriage. The price charged by the shipping company for their services is called "Freight." When the freight is "Prepaid," that is, paid by the exporter when he hands over the merchandise, the B/L is clearly marked to that effect. If the contract for sale of goods is C.I.F., the exporter must see that he pays the freight, and gets a "Freight Paid" B/L. If by any chance he omits to pay the freight when handing over the goods, he can afterwards pay it and get a freight receipt from the shipping company attached to the B/L.

Payment of Freight. In the case of goods sold on F.O.B. terms the freight is not necessarily prepaid at the exporter's end; it is no part of his duty to pay for the carriage, and the B/L he will get will usually be a "Freight Collect" one. The freight is then collected from the oversea importer, either after the goods arrive but before he takes them away, or possibly before the goods arrive. The documents usually reach the buyer before the goods, so he has some time in which to meet this necessary disbursement.

In the case of manufactured goods sold F.O.B. to an oversea distributor who gets his orders confirmed by an indent house, the indent house pays the freight, even though the manufacturer makes out the B/L.

Should the shipping company refuse to take over the goods on "Freight Collect" terms, then, in order to protect his buyer, the F.O.B. seller pays the freight, gets a "Freight Paid" B/L, and claims from the buyer the amount thus paid away in excess of his obligations. This he does by adding the sum disbursed to the total of his invoice (explained later in this chapter).

Carrier's Lien. The shipping company has a "Lien" on the goods for any unpaid freight, so they will not in any case part with the goods unless and until their charge is paid. A "Lien Clause" appears on the B/L itself, and the right to retain the goods can also arise from General Average or Salvage. If a ship and cargo are exposed to danger of damage or destruction, in averting which some part of the cargo or the ship suffers damage or is destroyed, the loss is known as a "General Average Sacrifice." A partial loss of goods, caused by a peril not amounting to a general average loss, is a "Particular Average Loss." A contribution is claimed from all the shippers in respect of the former, and a lien exists in respect of such loss, similar to that arising from unpaid freight.

The Seller, the Buyer, and the B/L. Where it is agreed that the goods are to be "Free on Board," the seller must see that the goods are placed on a boat, and usually on a particular boat which has been specified by the oversea buyer or his indent house. This follows from the principles laid down in Chapter II. It will not do for the seller to hand over to the shipping company at the port or wharf, or even at a quay alongside the particular vessel; the seller must do more than this. He must see that the goods are on the specified boat arranged for by the buyer, as the buyer has a right to expect. If the buyer does not receive the expected merchandise on that boat, he may be placed in a very awkward position. He may have sold to other people on the terms that the goods

are to arrive on that certain vessel, and if they do not actually arrive he is fully justified in refusing the goods when they subsequently come to hand, and also in suing the seller for any loss he may incur in buying in to meet his commitments. On the other hand, if the goods arrive before the buyer expects them, through being sent on the wrong boat, he would be put to the trouble and expense of warehousing the merchandise until the time at which they should have reached him, and for which time he has re-sold. In either case the buyer has the right to refuse both the documents and the goods unless the ship specified actually carries the goods.

The B/L is made out in one of two forms, either "Received on Board the s.s . . ." which is the form the F.O.B. seller must see he gets, or the "Received for Shipment" form. The former is sometimes worded "Shipped by the s.s. . . ." the word SHIPPED being printed in heavy type. This form is usually referred to as a "Shipped" B/L and sometimes rather loosely as an "On Board" B/L. The two terms are practically synonymous, but it would be more correct to refer to each according to the actual wording it bears.

In this country the F.O.B. seller must get a Shipped B/L by which is meant a bill of lading evidencing shipment on board an *ocean-going* vessel. Contract law in the U.S.A. is more lenient in its interpretation of the term "On board," for there it may mean either of three things—

(1) On a railroad truck (cf. "F.O.R.," Chapter II).

(2) On board a lake steamer.

(3) On board an ocean-going vessel.

Should the buyer wish to secure the shipment on a *vessel*, he must stipulate "F.O.B. vessel." If he requires the goods to be transported by a particular vessel, he names that vessel. If he requires shipment on board an ocean-going vessel, he calls for an "On Board Ocean B/L." British importers of American goods should be careful how the B/L is described in the contract, particularly where the goods originate from up-country. (See also "Through B/L," below.)

When a C.I.F. seller takes his goods to the shipping

company, and pays the freight, it may or may not satisfy his type of contract for sale of goods, if he merely does that and no more. If he takes a "Received for Shipment" B/L he must consider—

(*a*) Whether his contract with the buyer had led that other party to expect the goods by a particular vessel; if so, he must see they go on that vessel; if not, then—

(*b*) Whether his contract calls for shipment by a particular date; if so, he must see that the shipping company are not still holding the goods at the port when that day arrives. He may have agreed to ship "During December," and have obtained a "Received for Shipment" B/L dated 28th December, and yet not have carried out his bargain. He must see that the goods are on board a vessel bound for the buyer's port before midnight on the 31st December.

(*c*) If he has agreed to ship neither by a specified vessel nor by a specified date, he may still not be safe in accepting a "Received for Shipment" B/L. He must consider what is a "Bill of Lading" for purposes of C.I.F. contract within his own trade. Certain trades (Jute and Fruit, to instance only two) have customs in this connection which are universally recognized, agreed upon, and upheld by legal decisions. The writer does not pretend to know all these customs—it is not necessary for him to memorize them, for if any point is raised in practice he can refer to the recognized sources of information, of which the trade associations are the most important.

Where a "Received for Shipment" B/L is obtained by a seller in exchange for his exports and such is not the custom of his trade, he runs the risk that the buyer may refuse to pay when the time comes. The courts of law are very sympathetic to the recognized trade codes, and it is more than likely that the buyer would successfully plead that the "Received for Shipment" B/L is not a "Bill of Lading" for purposes of that particular trade, if such were, in fact, the case.

Where the contract terms are C.I.F., under U.S.A. laws the "Received for Shipment" B/L is generally looked upon by exporters as sufficient, so that British buyers of U.S.A. goods

should specifically state, when arranging to buy the goods, that they require "On Board Ocean" B/L.

The Parties to the B/L. The B/L embodies an undertaking on behalf of the shipowner to deliver the goods; a "consignee" is named in the document, to whom the goods are to be handed over, and it is usual for the words "Or order" to be added to the name of the consignee. This party is normally the importer who has bought the goods, but may be an agent at a port where the eventual buyer lives inland. In some cases the seller of the goods may have the B/L made out to his own order; this occurs, for example, where he has shipped his goods before arranging their sale, or where he has at that time not assigned specific packages to meet specific sales. He may have shipped ten lots each of 100 bales on one particular vessel, obtaining 10 sets B/L in exchange, whilst he has only sold six lots and is negotiating the sale of the other four. When his negotiations reach a successful conclusion, he can proceed to endorse his name on the bills of lading and send one to each of his ten different buyers.

Effect of Endorsement of B/L. The law recognizes mercantile practice, for where a seller (or an agent acting for a seller) to whose order a B/L is made out, endorses his name to that bill of lading by writing it on the back, and sends that B/L to the buyer (or the buyer's agent) with intention that the said buyer shall get those goods, the goods do actually pass according to the intention. The B/L is, for this purpose, a document of title representing the goods whilst they are inaccessible in the ship's hold.

An endorsement by the consignor or consignee in the manner described in the last paragraph, a mere signature on the back of the B/L with no words of any kind added thereto, is called an endorsement "In blank." The opposite form is known as endorsement "In full." Here a transferee is named, for the party to whom the goods are deliverable (as named on the B/L) writes above his endorsement: "Deliver to X." The further endorsement of the B/L by X is now necessary before the shipping company will deliver the goods. Sometimes

when a bank is interested in the transaction they will ask for the B/L to be to their order: in that case it can either be made out to their order, or the party to whose order it is made out may endorse it to the bank, the effect in either case being that the property cannot pass without the knowledge and consent of the bank named.

Stale B/L. Shortages of trained staff in the offices of shipowners and others performing ancillary services have, since the war, often resulted in such long delays in the completion of bills of lading that they have not been returned to the exporter until the merchandise had arrived at destination abroad. The bills of lading are then said to be "stale," with consequences which will be examined later.

To say that a bill of lading "is not current" is another way of saying it is stale. The former phrase is more common in American parlance than in our own.

Forwarding the B/L. For safety's sake one part of the B/L is sent to the buyer by the first mail and the other or others of the set by a subsequent mail or alternative route. Sometimes one copy is sent "In the ship's bag," so that there is no chance of the goods arriving before the documents, whatever happens to the other parts, and the buyer will thus be able to deal with the goods immediately they arrive. This prevents the possibility of the goods being dumped on a quay where they might come to harm by reason of pilfering, weather conditions or other causes, or incur the heavy charge of "Demurrage."

Delivery of Goods. The first copy which is presented, complete and regular on the face of it, to the shipping company after the goods arrive at their destination, will get possession of the goods. If the B/L states that the goods are to be delivered to a named party (and not "To Order") the shipping company have only undertaken to deliver to that party and nothing more; they will expect him to produce a part of the B/L; they can insist on his so doing. With an "Order" B/L the goods are handed over to the party to whose order it is made out, providing he has endorsed, or to the subsequent

holder; if merely to "Order" without name mentioned, the exporter by whom the goods were shipped must place his endorsement on the B/L before sending it to the buyer, else that buyer will probably have to put up a banker's indemnity in order to secure the merchandise.

The seller should see that the full set passes to the buyer, for if one copy gets into wrong hands after it has been endorsed, the buyer may go to get his goods only to find that they have been taken away by a cheat. It is of little comfort to him to know that if he can find the cheat he may be able to get the goods back. If the miscarriage is due to negligence on the part of the seller, that is, if by his carelessness an endorsed copy has got into wrong hands, the buyer has the right to refuse the documents. Clearly, too, if he went to the length of stipulating in the original contract for sale of goods for ALL the parts of the B/L, he need not pay until all of them reach him.

Parts and Copies. When a set of B/L is originally issued each part is signed. In the case of an "On Board" or "Shipped" B/L, the Master of the vessel signs, but in the case of a "Received for Shipment" set all the parts are signed by the agent of the shipping company at the port of embarkation. Each part is stamped with a 6d. impressed stamp, if issued in this country. For convenience, two unsigned *copies* (not parts) are made out at the same time. One of these unstamped copies is kept by the seller in his files for reference, and possibly for use as evidence if needed in an insurance claim. The other is the "Master's copy" which the Master of the ship keeps in order that the ship's manifest may be made out and so that he can identify the goods when it comes to getting them ashore. These two copies are clearly marked with the word "COPY" for safety, and are left unsigned in order to avoid confusion with the stamped parts.

The practice of issuing parts and copies is not universally followed in exactly British form; thus some foreign shipowners issue four bills of lading, but only sign the top two. These correspond to our "parts" whereas the two unsigned ones are what we call "copies."

"Clean" v. "Claused" B/L. If the goods show signs of damage when the Master or agent receives them at the embarkation port he draws attention to the fact on the B/L he issues, by stating "One bale torn," "Two cases damaged," "Shipped in old bags," "Insecurely packed," or other appropriate clause. If the goods appear to be in order he signs the more usual "Clean" B/L which says ". . . in apparent good order and condition." Thus it is ensured that if damaged packages are handed to the shipping company, the fact is clearly indicated to all parties. If, on the other hand, a Clean B/L is given, and then the packages are damaged whilst on board, the buyer knows at once and can bring the damage to the shipping company's notice.

Dock and Mate's Receipts. It may be that the seller will take his goods to the shipping company before the arrival of the ship by which he wants them to be exported, or he may place them alongside before the vessel can take them over the ship's rail. In that case he will put the merchandise on a quay or wharf and get a Dock or Wharfinger's Receipt. Or it may be that ships do not or cannot come right up to the quay-side and goods have to be sent out to the roadstead in smaller boats ("Lighters"); in this case a Mate's Receipt is issued to acknowledge the goods. Where a seller gets any one of these types of receipt he does not send it on to the buyer, but makes out the B/L from it and tenders both B/L and receipt to the ship's master or agent; the B/L is signed by that party, and the seller gives up his receipt.

Through B/L. Where there is no direct shipping link between seller's and buyer's port, the seller having to arrange the carriage right through to the other party will get a "Through" B/L, arranging for the necessary transhipment, and subsequent carriage by the second vessel. He must see that he gets a B/L covering the whole voyage to the C.I.F. buyer's port, not one that merely undertakes shipment to the intermediate point with an expression of a pious hope that they will there be placed on a vessel covering the remainder of the journey to their destination.

The "Through," "Thru" or "Transhipment" B/L is commonly used in the U.S.A. to cover exports which are sometimes not even on a vessel, but merely on the railroad, and the term "Ocean" B/L refers to one issued for a sea voyage; in the latter case this may be of the "Shipped" or "Received for Shipment" type. As has been observed, British buyers usually call for "On Board Ocean" B/L if they wish to get a "Shipped" B/L, as understood in this country, and thus they leave nothing to chance.

Where it proves difficult for the seller to secure a through B/L to the buyer's port, the parties can agree to a change in the basis of the contract. Suppose a merchant sells to a client in Djibouti, for transhipment at Aden, buyer and seller may agree C.I.F. Aden, leaving the buyer to arrange a separate contract of affreightment from Aden onwards.

The Policy of Insurance

This document is a signed contract to cover the risks of damage to, or loss or destruction of, goods or other property. For our purpose, i.e. in connection with merchandise moved across land or sea or both, we need not consider the wider topic of insurance generally.

The seller of goods C.I.F. (or the buyer F.O.B.) approaches an insurance company or Lloyd's underwriter, pays a premium according to the rate determined in the insurance market by supply and demand, and receives in exchange a contract, usually evidenced by a policy. Such policy is made out in favour of the party effecting the insurance, and he can endorse it by writing his name on the back. He can "Assign" it, by thus endorsing it and then handing it on; he can put it with a B/L and, if both cover the same lot of goods, hand the two documents to somebody who has bought those goods from him, even if the goods have not yet arrived.

Stamping. An insurance policy issued in this country must be stamped with an impressed stamp. Insurance policies issued abroad to C.I.F. sellers come into this country unstamped, of course, in which case they must be taken to the

Revenue authorities for stamping within ten days of their arrival.

Risks Covered. The party taking out the policy should see that it covers all the risks he wants covered, according to what he is bound to do by the terms of the contract for the goods; particular points have to be watched in particular trades, some goods being more prone than others to damage by sea-water, breakage, tropical heat, humidity, breakdown of refrigerating machinery, or other causes.

The Floating Policy. The F.O.B. buyer or C.I.F. seller may take out a separate policy for each particular lot of goods, or he may have a "Floating Policy," otherwise called an "Open Cover." An importer or exporter interested in a series of shipments makes use of this floating type, taking out one large policy for the total of all his expected shipments whilst his season is on (if engaged in seasonal trade) or to cover a round total in value if in a more steady all-year business. As shipments are made, he will "Declare" them under the policy, thus reducing the total available cover. For example, a jute importer might arrange for a total floating policy to cover expected shipments up to a total of £10,000; then he places an order for £1000 by writing or cabling to his F.O.B. seller in Calcutta, so he fills in a declaration form for £1000 plus his expected margin of profit of £100, £1100 in all, and sends it to the insurer. He makes a note of the amount "Declared off" on the back of his policy, and then considers it valid only for subsequent shipments up to a total of the balance outstanding, namely £8900.

An alternative form of floating cover is used to insure the various goods which are imported by a buyer who trades in a variety of merchandise, or who gets his supplies from many different countries. Whereas jute to pass in several shipments all from one place of origin is insured at the same rate of premium agreed when the policy is taken out, the buyer of various different commodities has to pay a variety of premiums according to whether the commodities are perishable (fish or eggs), dangerous (explosives) or of high value in proportion to

bulk, and thus more easy to steal (platinum, gold or diamonds). In the example of jute, the insured party pays one premium for all the merchandise at the agreed rate per cent, in the other example he pays an agreed "basic" rate, and the balance due to or from the insurer is adjusted when the policy is completely used up.

It will be readily seen that the system of floating policy, coupled with the issue of certificates, shows the shipper a considerable saving in stamping fees: he pays one stamp on the original policy, and the certificates are unstamped, instead of a lot of policies each of which would have to be separately stamped.

Declarations on Floating Cover. A C.I.F. seller having a Floating or Open cover for all his shipments declares each separate shipment as he makes it, and issues a certificate giving all the particulars of the specific consignment, stating the "Declared Value" of the goods, the name of the ship by which they are conveyed, their quantity, quality and description, and the distinguishing marks used to identify the packages; that is, all particulars as they would appear on a separate policy had one been taken out. This certificate is placed with the other documents and passed to the buyer, but it conveys to the buyer no right to sue the underwriter under our laws, as any action in our courts to recover on a contract of insurance must be supported by the policy. The lawyers would say here that there is no "Privity of Contract" between the underwriter and the buyer of the goods; if he wanted to sue the buyer would have to get the seller to act for him, when this further disadvantage arises—there may be some premium owing by the seller to the underwriter, and until this premium is paid the buyer cannot get his money.

However, the position of the buyer is improved if the seller arranges a "losses payable abroad" contract, in which case the assured's certificate in his hands establishes his right to claim. If he went to law on it, however, he would have to arrange with the seller to put the policy in evidence (see below).

Certificate under Floating Cover. Certificates of insurance issued by C.I.F. sellers are often signed on behalf of the committee of Lloyd's, and this clears the buyer's mind of doubt as to whether or not the insurance risk has been covered: unless the buyer gets the actual policy he cannot sue in his own name. The fact that certificates of insurance are so widely accepted points to a high degree of commercial morality, but is no comfort to the importer who re-sells on C.I.F. terms only to find that he cannot fulfil his obligations by delivering a policy, because he neglected to ask for one when he originally ordered his goods. It has been held on more than one occasion in our courts of law that a certificate is "Not a good tender" under C.I.F. contract.

A specimen certificate appears at the end of this chapter.

Danger of Certificate. Under English law the C.I.F. buyer has the right to demand a policy of insurance, but under U.S.A. law he has no such right, unless he has expressly called for the policy in the original contract for sale of goods. Thus normally the American seller only passes on a *Certificate* of insurance, made out by an insurance company to him, and endorsed by him. If the British C.I.F. buyer has re-sold the goods on C.I.F. terms to other parties, those parties can demand a policy, and will take nothing less. There is this to be said about the certificate used in American trade—that it is usually issued by an insurance company, and the buyer gets the right to claim on that company direct, without having necessarily to approach them through the C.I.F. seller.

The Cover Note. When insurance is arranged through an insurance broker, a "Cover Note" may be issued; this is a certificate given by the broker, an agent, to say that certain insurance is being arranged by him. It is not stamped, it is not a legal document, and is only intended as a temporary memorandum to record that the actual policy is on the way: it might be produced, if necessary, as evidence of good faith, but it cannot be sued on as there is no "Privity of Contract" between the insurer and would-be assured. It should not be accepted by a C.I.F. buyer, who has the clear right to refuse it.

Certificate v. Policy. This section of the chapter is best closed by an explanation of the difference between a policy and any other form of evidence that insurance has been effected. Whereas the policy sets out all the terms of the contract of insurance, which can thus be read by the parties and interpreted in a court of law, no certificate or cover note does so. In this the certificate or cover note falls short; it is essential that the C.I.F. buyer should be able to see plainly from the document which comes into his hands that he has been covered by insurance against all the risks against which his contract to purchase the goods indemnifies him.

The Invoice

This document is made out by the seller, is addressed to the buyer, and gives a statement of the transaction. It normally shows the quantity, quality, and description of the goods, together with a statement of the unit price and, usually in cash columns on the right-hand side, a statement of the total price payable. In order to identify the packages which have been shipped, the seller gives a specimen of the marking which has been put on the cases or bales, and in order to identify the transaction to the buyer he quotes any reference numbers (Order or Contract numbers) which have been allotted to that particular order. These documents vary a lot in the detail which appears on them; some merchants use their ordinary letter-paper for invoices, others have special documents printed, and yet others use a type of "Fanfold" or "Manifold" form, so that carbon copies can be taken and used by their office staff as records of the transaction in their files and book-keeping system.

Reference to other Documents. It is usual for the invoice to specify the other documents to which it is attached, referring to them by their serial numbers, and, in so doing, advising the buyer of the name of the boat and the port to which it is bound. Any additional charges which the seller incurs on behalf of the buyer are added to the cost of the goods. If the contract was arranged on C.I.F. terms there can be very few

additional items of this type, the only one really common on invoices at present in use being that which arises when the buyer does not stipulate for "war risk" in the original contract, but subsequently asks the seller to secure cover for the risk as an addition to the marine policy. The extra premium is then claimed from the buyer by being added to the invoice.

Invoices for Freight and Insurance. Where a contract is F.O.B. the seller is not liable for freight or insurance. It may be, however, that the buyer asks the seller to take out a policy or issue a certificate of insurance, in which case the seller will either add the amount to his main invoice or, as is more usual, make out a separate invoice for the insurance premium. Some exporters consider the latter course preferable as it separates the two distinct contracts into—

(1) That in which goods are sold by F.O.B. seller, who thus acts as a principal in the deal.

(2) That in which the seller arranges insurance on behalf of the buyer, for which purpose he is the agent of the buyer.

In a similar manner, the F.O.B. seller may pay the freight and claim it from the buyer: shipping companies prefer to get the freight prepaid, and sometimes refuse to take merchandise on any other terms. Then as the buyer must eventually pay the freight, the seller claims it from him in the same way as he does the insurance premium.

Invoice as Account Rendered. One could summarize what has been said in regard to this document in the words "The invoice is prima facie evidence of the contract of sale and purchase." It is, in fact, used in this manner: it is the statement of account rendered to the buyer, and he cannot check it until he receives the goods; until that happens, he accepts the invoice as showing what he owes on the transaction.

Other Documents

It may be that other documents will be submitted by the seller in support of his invoice. He may go to the port authority when he is shipping his goods and get them to check the weights of the packages; in this case he obtains from them an official

"Weight Note" or "Certificate of Weights." This is an important document where buyer and seller have agreed that the price shall be so much per lb., cwt., or ton "Shipper's Weights"; the particular goods may be subject to loss in weight by evaporation (e.g. artificial manures) so that it is most important for the seller to get a check on the weight for which he is to be paid. He will only be paid for "net" weight, of course; that is "gross" or total weight less the packages, and these particulars are given on the official certificate.

Other goods (e.g. metallic ores) have to be up to a certain standard, in connection with which a certificate of chemical analysis is obtained from an official analyst, and attached to the invoice. When perishable goods are shipped the seller usually gets the goods officially inspected, and sends the relative certificate with his invoice (e.g. salt fish, fruit, etc.).

In the case of many countries, permission to import is refused unless a certificate of origin is produced by the buyer. This document may form part of the invoice itself. The essential feature is a specification of the country of origin, saying where the goods were originally grown and/or manufactured. There may be a preferential tariff in favour of goods from particular countries, and in ensuring that the goods have not been merely re-shipped by a seller who has brought them in to his own country from some other place of origin not enjoying the preference, this document is of particular importance. The certificate of origin usually bears at the foot a formal declaration as to the truth of the statements it makes, which is signed by the seller. A similar certificate may be pressed into service where goods of a particular type from certain countries are banned (e.g. cattle from a port in whose hinterland foot-and-mouth disease is rife), or where the country of their growth is a material part of the description of the goods (e.g. Para rubber or Ceylon tea).

Exporters of goods from this country to Australia complete an official printed form known as the "Certificate of Origin and Value." The statement of the value of the goods in a declaration made by the exporter (the seller) is of great use in determining what import duty, if any, is payable when they reach

their destination. In some cases it is even necessary for the invoice, or a supporting document, to state the value F.O.B. at the port of embarkation (in the country of export) and also the value C.I.F. at the port of disembarkation (in the country of import).

The laws of many importing countries require the other documents to be supported by a consular invoice. This is essentially a copy of the commercial invoice, made out by the seller on an official form, and taken by him to the consul of the country to which the goods are being sent. The consul appends his signature over a revenue stamp of his own country. This document facilitates the clearing of the goods through the customs at their destination and serves as authentication of the particulars it sets out. Thus a British seller exporting goods from Liverpool to a buyer in Boston, U.S.A. would get a consular invoice "visé" by the U.S. Consul at Liverpool. The stamp has to be paid for by the seller, unless the buyer has, exceptionally, agreed to bear the expense.

Another type of invoice is that which is certified by the Chamber of Commerce in the exporter's (seller's) port, as a guarantee which covers some material aspect of the trade. Thus the buyer may have to pay duties on the current domestic value of the goods, in which case his authorities would require him to provide evidence to that effect. The seller must necessarily facilitate the business by providing the evidence required, which (in some trades) is done by an invoice bearing a Chamber of Commerce certificate.

There is much more that could be said about the invoice, but to say more would entail entering into the detail of certain trades, or trade with certain countries. A trader contemplating buying or selling abroad should approach the consul of any country with which he intends to trade, or the Board of Trade, or his Chamber of Commerce or his bank. Experience shows that this remark is by no means uncalled for.

In addition, it must not be forgotten that consular requirements change from time to time. Changes are announced in the *Board of Trade Journal* and instructive comments can

often be found in the *Mercantile Guardian*, the *British Trade Journal*, and the *British Exports Gazette*. The current requirements can be checked from the *International Mercantile Diary and Yearbook*, Shaw's *Shippers' Guide*, or the consular requirements supplement to *Lloyd's Loading List*.

A lamentable tendency, becoming more and more evident as the years go by, is for documentation to become increasingly complicated and expensive; this applies with particular force to "consular documentation." Much of the time and effort wastefully directed towards the understanding of these documents by exporters, as well as the related cost, could be severely curtailed if some form of agreed international simplification and standardization could be introduced. Thus there is no real need for certificates of origin and consular invoices to be different documents; a common form would suffice. Similarly, consulates could surely conform to standard forms of presentation and work to standard times for requiring lodgment by exporters. These and cognate frictions hindering the smooth flow of trade have been the subject of comment by the International Chamber of Commerce, which deserves every support in its efforts to make exporting freer and easier in spite of the secular trend in the reverse direction.

Examining the Documents

When a bundle of documents which represent an international trade transaction have been put together, they are (or should be) closely examined by the exporter with whom they originate, by other traders into whose hands they come, and by the banks who perform the financial services to which we shall later refer. Yet it is surprising how many discrepancies are discovered at the second or third hand. The points which should be checked by the seller, before he parts with his documents, are—

(1) That the invoice is properly made out, the buyer properly designated, the transaction properly referred to by contract or order number.

(2) If he is an F.O.B. seller, that any extra disbursements

for insurance and freight, paid out at the buyer's request, have been claimed from the buyer.

(3) If he is a C.I.F. seller, that nothing has been added beyond the bare agreed price, unless some unusual service has been performed in connection with the shipment, when a separate invoice should be attached (e.g. payment of premium for war risk).

(4) That the identifying mark placed on the packages allocated to this particular order is properly reproduced on the invoice, B/L, and insurance policy or certificate, and that as between the documents there is no disagreement on this point.

(5) That all the documents refer to the specific shipment, and to nothing more or less. If ten tons of scrap-iron have been sold, a B/L is of no value if it covers fifteen tons, as the buyer will object to having a duty thrust on him of saying which ten tons are his, and which five belong elsewhere; similarly there are risks in connection with the insurance policy covering more or less than the quantity. Thus the documents must agree in regard to quantity and amount.

(6) That the documents show that he has shipped the goods of the quality and description called for by the original contract for sale.

(7) That the B/L and insurance policy are endorsed where necessary.

(8) That if the original contract calls for an "On Board" B/L, the actual B/L commences with the words "On Board" or "Shipped."

(9) That if it was originally agreed that shipment should be by a certain date then the B/L must show that the goods were "On Board" before that date, or if in a certain period, that the B/L says "On Board" or "Shipped" and is dated within that period.

(10) That any other documents called for by the contract, or usual in the trade, are also present and correct.

(11) That if the original contract calls for a specified quantity "exactly," that he has shipped that exact quantity: if "*circa*"

or "approximate" to a named quantity, that any deviation from the named quantity by over- or under-shipment is within the limit of discretion allowed him by the use and custom of the trade, and that the deviation is permissible in trade with the actual country to which he is exporting. If a deviation is within a certain stated range provided for in the contract, for example an order for "100 tons, 10 per cent more or less," the deviation must be within the given limit; he must not ship less than 90 tons or more than 110 tons.

Other points may occur to readers, those given here being points which have given rise to law suits, or which have come within the practical experience of the writer.

Documents covering a shipment to Venezuela are appended at the end of this chapter, so that students may—if they wish—examine various aspects and particularly the cross-check.

Further Duties of the Parties. We have seen how the seller puts together the invoice, B/L, and insurance policy. These three documents form the essential link, in international trade, between buyer and seller. They represent the goods in transit, so that it is the duty of the seller to get them, as soon as he can, into the hands of the buyer. The seller has performed his duty when he has shipped the goods, at the time or within the period arranged, on a ship bound for the buyer's port, and secured any necessary insurance, providing always that those goods correspond to the quality and quantity he agreed to dispatch.

The seller having brought into existence the necessary documents by carrying out his bargain, is now concerned with getting paid; this he does by handing over the documents (i.e. *not* the goods) to the buyer. He sends the documents by mail to the buyer, who must now provide for payment; the buyer has no chance, in normal circumstances, to sample the goods, as the documents will be sent him by a mail steamer which will easily outpace the cargo boat. It may even be that the seller will send the documents by air mail, a practice which is on the increase. The buyer's duty is to pay against the documents. If he afterwards finds the goods are not

what he ordered, his remedy is to sue the seller for breach of contract.

While the cargo is on the sea, it is in the care of the shipping company and is not accessible; the documents which now represent the goods are the only evidence the seller can, or need, produce to the buyer. The buyer provides for payment in the manner agreed in the original contract, even if he knows that the goods have been lost at sea or even if he has been informed of some damage to them which has already occurred. His duty is to pay against the documents, providing they are in order; then later he can call upon the shipping company or the insurance company according to the contracts of affreightment and insurance which have come into his hands along with the invoice.

Type of Ship

The C.I.F. contract may be silent on the point of the type of ship by which the goods are to be carried. Three types may ply between seller's and buyer's ports—sailing ship, coal-burning steamship (usual abbreviation "S.S.") and oil-burning motor-vessel (usual abbreviation "M.V."). The duty of the seller is then to load the goods on a vessel of the type usual in the trade; though as between the steamship and motor vessel there is little usually to choose in point of speed, the sailing vessel takes so much longer that this type is only used in one or two trades, and even there to a decreasing extent. Thus it would be unfair (or, as the lawyers say, "inequitable") if the seller sent the goods by a sailing vessel when the buyer had the right, according to trade usage, to expect transport by the faster means. Where from the start the seller intends to use the slower type in order to save on the freight, the fair thing to do is to tell the buyer so before the price is agreed upon.

Route

Where no particular mention is made of the route (e.g. from India, via the Red Sea or via the Cape) the seller must

send by the usual route, by the route which his trade regards as the usual one. He may get the goods carried at less cost by some alternative route, but that is manifestly to the detriment of the buyer, who is looking for the goods to arrive as usual, and may have re-sold on those terms. Moreover, the seller must get a reasonable B/L, not one which permits the ship to call at ports off the usual route. Where the seller contemplates getting an unusual B/L, the fair thing is to get the buyer's agreement before he does so, and the most equitable course is to mention the point when offering goods to possible buyers, i.e. before any contract is entered into.

Insured Value

The insurance which the C.I.F. seller takes out must cover the value of the goods. It needs little thought to show that the value to the seller is the value at the place from which he ships. The value to the buyer is a very different matter because he is buying to sell again, and thus his profit and the freight might reasonably be included in any valuation; alternatively, he might base a value on what it would cost to replace the goods if they did not reach him. C.I.F. contracts usually call for insurance by the seller for the invoice value "plus 10 per cent." That is the usual percentage, but sometimes others are called for. If no mention is made of additional insurance it is not unusual to cover the invoice amount, though actually the freight in case of non-delivery is reclaimed from the shipping company, not from the insurer. The ship has not completed the contract of affreightment, so the company cannot get payment for what they agreed to do but did not carry out.

In the course of merchandise to market, particularly when consigned to up-country buyers, customs duties are often paid at port of unloading, and thus the value to the buyer is enhanced. When this arises the buyer takes out an additional insurance cover, in order that he may not stand at a loss if the goods are lost or damaged whilst in transit from the port. He may do this himself, or he can ask the exporter to do it for him. Thus it is by no means uncommon for the London

indent houses to cover "additional value consequent upon payment of customs" with underwriters, on their clients' behalf; this is clearly understood to be over and above the insurance of the goods in transit prior to payment of customs duty.

Advice of Dispatch

The seller need not advise the buyer that he has sent the goods off. This may seem rather hard on the buyer if he wants to take out extra insurance cover against loss of profit, or war risk, or some other matter not covered by the policy usually tendered under C.I.F. contract. This, again, is a point on which the parties should agree before the order is given for a definite quantity of the goods which the seller offers. In practice, the point can be covered by arranging a cable code-word which the seller sends to the buyer on shipment; this word is known only to them, and costs at most a shilling or two even if sent from the ends of the earth. If the seller insists on such a trivial point, he can recover the cost from the buyer.

Stipulated Insurer

Unfortunately, the buyer cannot insist on an English policy of insurance unless he stipulated for it in the contract for purchase of the goods; he can only demand a valid policy of such a kind as a reasonable buyer would not refuse. Had the buyer said from the start that he would take the goods only on condition that the seller agreed to take out the policy with Lloyd's underwriters, then he would, of course, be entitled to get such a contract of insurance.

Frontier Duties

Goods sent out of a country may be liable for export duty; this the seller is bound to pay. On the other hand, he claims the benefit of any "Drawback"; where his goods consist, in whole or in part, of some prior import on which an import duty had been paid, he may have the right to reclaim that duty from his own customs and excise department. If, when

the goods arrive, an import duty is payable, the buyer must pay that duty before he gets possession of the goods; they may be put into a bonded warehouse, he may even go and see them, take samples in order to re-sell, blend or sort them, or otherwise put his hand on them and say "These are mine," but he cannot take them away until he has paid the duty. All this is no concern of the seller, who completed his part of the bargain when he sent off the documents.

Special Types of Contract

Should the seller wish to convey to the buyer the right to handle the goods before he pays, that is a very different thing from payment against documents under a C.I.F. or F.O.B. contract; such a contract is not the proper one to enter into in that case, and any attempt to allow the buyer the possession of the goods as the condition of arranging for payment should be put into the "ex-ship" or "ex-warehouse" form. Contracts in this form are not nearly so common internationally as the C.I.F. one, and should be the subject of a special agreement between the parties in which all the points are enumerated.

There is a large group of types of contract in use, particularly in the U.S.A., such as "ex-grain-elevator," "ex-wharf," "ex-dock," "ex-pier," "ex-store," and so on, all signifying that the buyer gets the actual goods when he pays for them, or else a receipt in some form which he can surrender immediately so as to get his goods if he so desires. In all these cases the goods are at destination as far as the seller is concerned, he having put them in a certain agreed spot where the buyer takes over and pays the subsequent expense of storage and insurance. These terms are largely a matter of domestic, not international, trade in goods, but in order to get the merchandise into that form if coming overeas (as in the "C.I.F. landed, duty paid" contract) the parties will find their trade facilitated by using an insurance contract with the "warehouse-to-warehouse" clause. The seller of goods exported with a view to payment by a foreign buyer on delivery of the goods should take out such an insurance contract and also cover war risk, keep the

policy in his own hands, arrange for the goods to be both conveyed and delivered into the storage place, and the buyer notified; if "ex-ship" he will have to pay all charges up to the time the buyer takes delivery from the ship's tackle, but he should see to it that the buyer is notified of the arrival of the ship and is not allowed to keep the vessel beyond the usual unloading time.

Documentation for Air Transit

The document which, in air practice, most nearly corresponds to the B/L for marine transport, is the "Air Consignment Note." The consignor (corresponding to the "shipper" by sea) is required to make out the air consignment note. This is prepared in triplicate, then lodged with the carrier at the same time that the merchandise is tendered. But where all parts of the B/L are identical, the three parts of the air consignment note are marked differently as follows—

(1) Marked "For the Carrier." This must be signed by the consignor: the carrier then takes possession of it and it is used for manifest purposes, i.e. to make up the list of merchandise carried by the craft. The manifest, in turn, is required for clearance purposes, and most carriers also use it for tallying and stowage purposes.

(2) Marked "For the Consignee." This must be signed by the consignor before lodgment of the merchandise; it must be signed by the carrier on acceptance, and is then carried on the same plane as the goods and delivered to the consignee on arrival at destination.

(3) Marked "For the Consignor." This is returned to the consignor after signature by the carrier, thus constituting the consignor's evidence of the contract of affreightment.

There are certain essential features of the air consignment note with which buyers and sellers should be acquainted. The legal requirements are laid down in the Carriage by Air Act, 1936, which should be studied for details, with particular reference to Section 2 (iii). Freeman's *Civil Aviation and the Export Trade*, published by the Institute of Export, is commended.

Exporters who are not equipped to handle the business themselves can always go to agents for the necessary service; most of the shipping and forwarding agents have set up departments to deal with air freighting. The service offered includes preparation of air consignment notes on the exporter's behalf.

For the benefit of students who are acquainted with bills of lading, a comparison between certain important features of the B/L and the air consignment note is given below—

Air Consignment Note	Bill of Lading
1. Made out in three parts.	1. Number of parts varies in practice.
2. Number of copies varies in practice.	2. Usual for two parts to be prepared.
3. The first part is used for carrier's purposes (manifest, etc.).	3. Master's copy used for carrier's purposes.
4. Second and third parts signed by carrier.	4. All parts signed by (or for) the carrier.
5. Printed in at least two languages.	5. Normally printed in one language only.
6. Second part carried by the plane.	6. No part carried by the vessel except in special ("ship's bag") arrangements.
7. Second part delivered to consignee.	7. Except by special arrangement, all parts returned to consignor.
8. Consignor has the right to withdraw the merchandise at the aerodrome of departure or destination or at any landing place, or he can call for them to be delivered to some party other than the named consignee.	8. Consignor only has the right of stoppage *in transitu* in the case of insolvency of the buyer.
9. Except as in (8) above, carrier delivers to named consignee.	9. Carrier delivers against production of the first part of B/L, which, being complete and regular on the face of it, is tendered to him to claim the cargo.
10. No provision for negotiation to third parties; normally, the only other party handling the goods on arrival is the forwarding or customs agent of the consignee.	10. "Quasi-negotiable," i.e. in practice it may pass through several hands prior to delivery of the cargo.
11. Normally arrives at the same time as the consignment.	11. Normally arrives some time before the cargo reaches destination port.
12. Must have customs documents attached to second part, but invoice, insurance documents, etc., may be separately mailed by air or surface route.	12. In normal practice, *all* other documents are attached to it, first set going by first mail (usually air mail), etc.
13. Carrier bound to notify consignee.	13. Carrier only bound to notify if accepting a special obligation to do so.
14. Handed to carrier when cargo is tendered.	14. There may be another document intervening (e.g. mate's receipt).

INVOICE

No. 03992

A. N. EXPORTER, LTD.

166 High St.,
London, W.1.

To Importers, S.A.,
P.O. Box No. 7723,
Caracas,
Venezuela.

Your Order RAD/63A....

Date....16th April, 19....

Quantity Ordered	Quantity Despatched								
120	120	AC46 Radio Receivers . .		£9	0	0	£1,080	0	0
							NETT/ F.O	NE .B.	TT
		330.—Aparatos Radio-Receptores. (B) De más de 10 kilogramos netos cado uno, hasta 25 kilogramos . We the undersigned hereby declare that the articles of merchandise specified are truly and bona fide of United Kingdom origin and that this Invoice is true and correct. W. J. Smith, Secretary, A. N. Exporter, Ltd.		6ª	M	ás	50% .		

Marks and Nos.	Method of Packing	Nett/Nett Weight	Gross Weight	Measurements
I.S.A. CARACAS VIA LA GUAIRA 1/120	120 Fiberite Cases each containing 1 AC46 Radio Receiver	Each Case 12·70 Kilos Nett Weight Each Case 12·70 Kilos	Each Case 19·50 Kilos	Centimetres 66 × 38 × 42

Delivered.."D" Shed, Victoria Docks..
For Shipment per..s.s. *Samspring* ....
To the Order of..Royal Mail Lines, Ltd.

Other documents attached—Freight/Insurance Account
Consular invoice
Bill of Lading
Insurance certificate for £1300

FREIGHT AND INSURANCE ACCOUNT

CS. 73999

A. N. EXPORTER, LTD.

166 HIGH ST.,
LONDON, W.1.

To IMPORTERS, S.A.,
P.O. Box No. 7723,
Caracas,
Venezuela.

Your Order RAD/63A. ... Date 10th May, 19... ..

	£	s.	d.
Freight 460′ 0″ @ 160/- . .	92	0	0
Wharfage @ 12/6 . . .	7	3	9
Consulage 3d. per pkg. . .	1	10	0
	100	13	9
Marine and War Risks Insurance .	11	13	0
Customs Entry		3	6
Consular Invoice Forms . .		7	6
Presenting Consular Invoice .		7	6
Port Rates		7	6
Bills of Lading		4	0
Agency		10	0
	£114	6	9

Marks and Nos.	Method of Packing	Nett Weight	Gross Weight	Measurements
I.S.A. CARACAS VIA LA GUAIRA 1/120	120 Fiberite Cases of Radio Receivers			

Delivered.."D" Shed, Victoria Docks..
For Shipment per..s.s. *Samspring*.....
To the Order of..Royal Mail Lines, Ltd.

No.........................   *Folio*.......................

FACTURA CONSULAR VENEZOLANA

CONSULADO EN LONDRES

Mercancías embarcadas en Londres por....A. N. Exporter, Ltd.....*a bordo del vapor denominado*....“Samspring”....*de nacionalidad* Inglesa....... *su capitán*....T. Davies....*con destino al puerto de*....La Guaira....*Venezuela a la consignación de*....Tadeo Ortega F.....*por cuenta de*....Importers, S.A., Caracas.   *Trasbordo en*...

Marcas	Numeración	Cantidad de Bultos		Contenido			Peso Bruto en Kilogramos		Valor en Libras Esterlinas	Pais de Origen	Aforo	Observaciones
		En guarismos	En letras	Clase de Bultos	Declaración Arancelaria	Designación Comercial	En guarismos	En letras				
I.S.A. CARACAS VIA LA GUAIRA	1/120	120	Ciento Veinte	Cajas de carton	330.—Aparatos radio-receptores (B) de mas de 10 kilogramos netos cada uno, hasta 25 kilogramos. Declaramos bajo juramento que el valor y peso de las mercaderias expresadas en esta factura son los que ellas real y vercaderamente tienen segun lo comprueban nuestros libros. Londres el 30 de April de 1946 por A. N. Exporter, Ltd.	Aparatos radio-receptores	2340	Dos mil Trescientos cuarenta. Kilogramos	£1,080 0 0 Mil y ochenta Libras esterlinas.	Inglaterra		

Certifico que se me han presentado cuatro ejemplares de esta factura, y que ésta consta de   folio rubricado por mí.

LOS DERECHOS CONSULARES

SE PAGARÁN EN VENEZUELA.   Londres, Fecha ut Supra.   El Cónsul,

CHAPTER IV

TENDER AND PAYMENT

THE seller who has collected together a bundle of documents representing his sale of goods proceeds to hand them to the buyer and to secure payment; this he can do in a number of different ways.

Open Account: Debtor's Remittance

In the simplest case he sends the documents direct to the buyer with a covering letter asking for the invoice value to be remitted to him. This is sometimes referred to as "Open Account" finance, by which is meant that the exporter debits a current account in his books with what is owing on each export deal as it arises. The account stands under the name of the importer, who is thus the debtor, at any time, for the balance shown. It is implicit in such an arrangement that no bills of exchange should be drawn. In other words, "Open Account" and "Bill of Exchange" are regarded as being opposites for this purpose. If there is no arrangement between the parties for a credit period, by which the buyer is allowed a certain delay before he pays, then the buyer must immediately send the invoice amount. This is referred to as "sight" payment, i.e. immediately the buyer has "sight" of the documents he becomes a debtor for the invoice amount. He must discharge his indebtedness by sending what he owes, and payment in this form is called a "Debtor's Remittance." After the documents arrive, and until payment is made, the accounts between the parties are reflected by ledger entries in their books. The seller has assumed the role of creditor, the buyer that of debtor.

The debtor's duty is now to send his remittance for the credit of his account in the creditor's books; there is no reason why he should not send banknotes or coin, or even gold (except

where exchange regulations make this impracticable—see Chapter IX), but in practice this would be an exceptional course owing to the expenses of shipment and insurance of the valuables. He may have sums due to him by his debtors in the creditor's country which he can arrange to have put to his credit with that party, or there may be some reciprocal dealings between him and the creditor, so that only a balance is payable when these particular documents arrive. Under the last-named circumstances, which arise, for example, when the sale is C.I.F., and the debtor has insured on behalf of the creditor, a statement of account is rendered by the creditor showing the contra-entries and the balance due.

Bill or Draft

The debtor may remit by buying up bills of exchange (see below) on the creditor's country arising from his country's exports, and sending those; this involves finding a bill of the exact amount which he has to pay, or a number of bills totalling that sum, either of which it is most improbable he will be able to do. His best course is to go to his bank who will issue him their own draft on their correspondent in the creditor's town for the amount of the debt. There are, however, two other methods, as follows—

1. **Telegraphic Transfer.** Where the parties are in a hurry to settle the account, the debtor will arrange for his bank to cable the money to the creditor or to the creditor's bank. This the bank are able to do by sending their correspondent in the creditor's centre a coded message by cable or wireless, authenticated by a secret cypher known only to themselves and that correspondent, ordering the payment of the amount of the debt to the named creditor, or to that creditor's bank for payment into his banking account. This method is called, for short, "T/T."

2. **Mail Transfer, or "M/T."** Should the parties not wish to incur the expense of cabling the money, the debtor's bank will be pleased to send a "Mail Transfer," or "Mail Payment" order, if necessary by air mail. This they do by sending a

letter to their correspondent, the authentication being the signature of authorized official or officials, instructing the correspondent to pay the creditor the amount of the debt either direct or through his bank.

Advantages of Mail Transfer. The mail payment order is in such common use that banks complete them (except for the signature) by means of folded forms in a machine like a typewriter. The form is a composite affair so folded that the bank's own entries and records are made out simultaneously with the letter ordering the disbursement. The great advantages obtained by this method over that of the remittance by the debtor of a banker's draft are—

(1) There is no risk of the loss of the draft by which it can get into wrong hands; a mail payment letter is of no value to the thief, but a draft which gets into wrong hands might be paid.

(2) The bank get the creditor's receipt for the payment to him, so that he cannot afterwards say he did not receive the money. If the debtor wishes them to do so, the bank will, without extra charge, get the creditor's receipt on the actual statement or invoice rendered by him to the debtor; in order that this may be done the debtor should hand the statement to his bank when he orders the payment.

(3) The banks automatically send a copy of their payment orders by second mail, thus reducing to a minimum the delay which might occur if the first mail were lost.

Whose Money?

The original order for goods, the offer of them, and the eventual contract for purchase and sale may mention the price in one of three forms—

(1) The money of the buyer's country.

(2) The money of the seller's country.

(3) The money of some third country.

When the buyer has received the documents he must pay in the money stipulated. If that is his own money, the bank sell him a draft, cable transfer, or mail transfer in that money

and charge a small commission for their services. The commission varies according to the bank's own expenses in the matter (which largely depend on the country in which payment is to be made), but a charge would be unusual that exceeded a shilling or two per £100, or part of £100.

Should the payment be in some other currency, the bank quote a rate of exchange (see Foreign Exchange, Chapter VIII). They tell the debtor how much of his own money he has to pay them in order to buy the payment of the amount he owes in foreign money; then he pays that much in his own currency in cash, or gives a cheque, or asks his bank to charge the amount to his banking account with them. At one time no commission was charged for this service unless the transaction was for a trifling amount, all expenses being allowed for in the rate of exchange. Since 1939, however, it has become usual practice for banks to charge a commission on exchange transactions.

Credit Period

It has been assumed so far that the debtor's remittance was due immediately he received the documents. In many contracts for sale of goods it is agreed, on the contrary, that a credit period is to be allowed; it might even be that the debtor had to pay the contract price during a certain period, or at a certain time, but would be allowed rebate if he paid before that period expired, or that time arrived. A credit period is possibly more common than a sight payment. When a period of so many days or months is allowed, it commences to run from the arrival of the documents, unless specifically agreed to the contrary. At any time until the last date fixed in the contract the debtor can make his financial arrangements in regard to transferring funds, including fixation of exchange. It may well be that he will have sold the goods to (say) sub-distributors and have received settlement of his related accounts; when he is so fortunate—or rather, skilful—in his arrangements, he turns over his trade merchandise without disturbing his own floating capital except for his running and overhead expenses. However, if a balance sheet or statement

of his affairs is compiled it must necessarily show his debt to supplier as a debt accruing due, though possibly only by including it with other items under the general heading "Creditors."

Cash Against Documents

It is becoming increasingly common, for manufacturers in particular, to quote F.O.B. "cash against documents" and leave their oversea buyers to make such arrangements as they consider appropriate for taking up the documents. The expression is a very loose one, so that an immediate note of warning must be sounded. Manufacturers intend "cash against documents *in London*," whereas, unless they say "in London," the buyers are entitled to arrange for cash to be paid *in the oversea centre*; the latter offers several advantages from the buyer's viewpoint, which are disadvantages for the seller. Suppose the buyer is located in Damascus, Syria. He does not have to pay until the documents are presented to him in his home town, but the buyer has to wait whilst the collection takes place. There is no duty on the buyer to open a bank credit in London, or otherwise bridge the gaps of time and geographical location. In other words, the seller (not the buyer) runs the risks implicit in these two gaps.

When a manufacturer has offered oversea buyers, and has been wise enough to call for C.a.D. in London, the buyer has apparently two main courses open to him. If it is usual in the trade, he can pass his order through a London indent house; when this order reaches the manufacturer it then carries the "confirmation" of a well-known shipper, as explained in Chapter I. For the purposes of the present chapter, it is the indent house which takes up the F.O.B. documents against payment to the manufacturer, arranges for payment of freight, and insures the goods, thus becoming the creditor of the eventual importer. In the dominion and colonial trades, where the indent houses are so extensively engaged, it is the indent house which draws the bulk of the export bills explained later in this chapter.

Where the intervention of the confirmer is not so usual, the buyer "Cash against Documents in London" can arrange a credit through a bank as explained in Chapter VI.

Creditor's Drawing

Whenever "open accounts" are employed, in either of the two courses in which the "Debtor's Remittance" is the method of payment—that is, whether payment is at sight, or at a future time—an element of credit given the debtor by the creditor is involved. The period from the time the goods were shipped until eventual payment is one in which the original seller (now the creditor) is trusting his money (or rather, money's worth in goods) to the buyer (now the debtor). It may be that he would rather not do this, but would prefer a method by which the buyer is only given the documents of title to the goods when he had provided for payment. Such a method is the "Drawing by the creditor," who then draws a bill of exchange for the invoice or statement total.

The bill of exchange is defined in Section 3 of the Bills of Exchange Act, 1882, as "an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time, a sum certain in money to or to the order of a specified person or to bearer." Such bills may be drawn for purposes other than those of trade, but the remarks which follow here are confined to trade bills.

The creditor draws the bill; he is the "one person" in the above definition and is called the "drawer." He addresses it to "another," who is the debtor and is called the "drawee" of the bill. The amount of the debt for which it is drawn is expressed in words and figures. This must be a "sum certain," though it may include interest or show how the rate of exchange is to be determined; between two parties in different countries, one or other must necessarily be concerned in the exchange of their two different moneys the one for the other.

Specimen 1

SIGHT BILL OF EXCHANGE

London, 19th June, 19

£500

On demand, please pay Collecting Bank, Ltd., or Order, the sum of Five hundred pounds, drawn against Invoice No. V. 4325.

Stamp (Signed) A. N. Exporter

To Importers, Inc.,
New York, U.S.A.

Specimen 2

"90 *d/s*" *BILL OF EXCHANGE*

London, 7th July, 19 . .

£1,000

Ninety days after sight of this FIRST of exchange (Second and Third of same date and tenor being unpaid) pay to my order the sum of One thousand pounds. Shipping documents attached, to be surrendered against acceptance.

Stamp (Signed) A. N. Exporter

To J. B. Lefebvre et Cie.,
Importateurs,
Le Havre.

SCHEDULE OF BRITISH STAMPS

Inland Bill of Exchange payable (1) On Demand
or (2) At Sight
or (3) On Presentation
or (4) Within 3 days after date or sight } . . . 2d.

whatever the sum payable.

Inland Bill of Exchange of any other kind, i.e. more than 3 days after date or sight—

Amount of Bill	*Stamp*
Not exceeding £10	2d.
Exceeding £10 but „ „ £25	3d.
„ £25 „ „ „ £50	6d.
„ £50 „ „ „ £75	9d.
„ £75 „ „ „ £100	1/-
Every additional £100 or part thereof	1/-

Example—

Stamp on bill £100 0s. 1d. 2/-

Where a bill is drawn on a British drawee in foreign currency it is stamped as if drawn for the equivalent sterling value at the rate of exchange on the date of the bill.

Bills drawn in the U.K. but payable oversea and bills drawn oversea but payable in U.K. are stamped in accordance with the above table. Foreign bills which are both drawn and expressed to be payable out of the U.K., but which are actually paid, endorsed or negotiated in the U.K. are stamped at the following rate—

Up to £50, as for Inland Bills.
Exceeding £50 but not exceeding £100, 6d.
" £100, 6d. for every £100 or part thereof.

In regard to the time at which bills are payable there is sometimes confusion in the minds of commercial men. The drawee must pay or refuse at once if the bill is "on demand," or if the bill is drawn payable at some time after date or after sight he must at once signify his willingness to pay at that future time, or refuse to do so. If he agrees to the bill he "accepts" it by writing his name across its face; he may possibly add the word "accepted" and if the bill is drawn so many days after sight he inserts the date on which he accepts (i.e. "sights") in order to fix the due date on which he will have to pay.

The words "at once" in the foregoing paragraph must not be read too literally, for the drawee expects to be given time to examine the documents. Normal practice is to allow him 24 hours to do this. The law governing the point where a bill is presented in this country is given in the Bills of Exchange Act, Section 42.

It is not possible to draw a valid bill "on arrival of the s.s. . . .," and thus allow the debtor to get the goods before he provides for payment, because that is not a "fixed or determinable future time." If traders want the goods to pass when the bill is presented (not under C.I.F. contract, of course), the bill should be drawn payable "on demand" (or "at sight") or some agreed period "after sight" or "after date" and then handed to a bank by the drawer with instructions to present on arrival of the ship carrying the goods.

Having stamped (see schedule on page 59), dated, and signed his bill of exchange, the drawer hands it to his bank for collection; he either makes it payable to his bank, or makes it payable to himself as "payee" and endorses on the back. His bank then place their own endorsement on the bill under the words "Pay to the order of . . ." inserting in the gap the name of their correspondent in the drawee's town.

The bill will probably be "drawn in a set," which is to say a "first of exchange," referring to the second and third as in my example No. 2, and second and third each referring to the other two: only one need be stamped. Then the documentary bill is not sent forward altogether by one mail, for the first of exchange can be attached to one part of the bill of lading, the invoiçe, and original insurance policy, and sent by the first out-going mail, and the other parts of the bill of lading with duplicate invoice and insurance policy by a subsequent mail or alternative route attached to the second of exchange.

Documentary Bills; Performance Completed

When a bill has been drawn by a trade creditor he attaches to it the documents of title to the goods; the documentary bill so created provides a convenient method of performing the C.I.F. contract. The seller has done what he was bound to do under the contract when he shipped the goods and got the proper documents together; he has now drawn his bill of exchange on the buyer, and attached the documents. When the bill is presented to the buyer he can pay it and get possession of the documents, thus performing his side of the contract. The exception is where the C.I.F. contract called for a period of credit to be allowed, when the buyer accepts a bill payable at some later date, thus agreeing to pay the amount on that date. Here it is a question for the parties to decide if the buyer can have the documents when he accepts, or whether he must wait until he pays. The arrangement may be "documents on payment," notwithstanding prior acceptance, so that the seller is not trusting the buyer very far; in this case it is usual for the buyer to be allowed to inspect and sample the goods so

that he can re-sell. If he is in a position to pay before the bill is due, the collecting bank allow him a "rebate" for the period from the day he pays to the date originally fixed for payment; they accept a prior payment, and allow him interest on his money for the time during which they have the use of it, as explained in Chapter VI. Bills which are to be surrendered only on payment are known as "D/P" bills (documents against payment). Those which the drawer wishes to be surrendered to the drawee on his acceptance are called "D/A" (documents on acceptance). The drawer may put on the bill itself the initials "D/P" or "D/A," but his bank will ask him nevertheless to sign a lodgment form (specimen on opposite page).

Use of Bill Lodgment Form

The use of the Documentary Bill Lodgment Form sometimes brings home to exporters the fact that some part of the expenses which will be incurred are not provided for in the original contract for sale of goods. Occasionally the form causes some concern; it is designed to cover all the possible alternative cases, and exporters may find some form of contract referred to by implication with which they are quite unfamiliar. Some trades have peculiar customs, and, in the case of particular countries, contracts between the buyer abroad and the seller at home may bring in some point which does not usually arise.

The bank form illustrated here is intended for use where the bill is made out in "pounds." Actually, for convenience, the bank have given this form their reference number, and added "STG" which is short for "sterling," in order to distinguish it from a slightly different form which is used when bills drawn in foreign currency are handed to them for collection. This form, then, is used when the bill is in British (sterling), South African, Australian, or Egyptian pounds. It is addressed to the bank by the customer, who signs it in the bottom right-hand corner; he is, normally, the trade creditor who has exported goods and has drawn the bill on the debtor (the foreign buyer, now the drawee of the bill).

FORM Fn. Bch. 74 Stg. Lodgment: Documentary Bill.

To THE EXPORTERS BANK LTD.

I/We hand you herewith the undermentioned bill and relative documents as specified, for collection for the credit of my/our .... Account. I/We authorize you to

(i) Remit first of exchange with one part B/L, and one each original documents by next convenient mail, others by subsequent mail.

(ii) Employ the services of your correspondent .... at .... All risks in connection with the acceptance, collection and reimbursement will be borne by me/us.

(iii) Charge my/our above account with all expenses incurred, and your commission at the rate of ...., except in so far as these are collected from the drawee.

(iv) Apply the terms of your general letter of hypothecation signed by me/us to the bill and documents.

Particulars regarding the Bill of Exchange—

Reference Number	If accompanied by Second and Third of Exchange	DRAWEE		Usance	Amount
		Name	Address		
					£

Specification of Documents—

B/Lading	Insurance	Invoice	Consular Invoice	Other Documents

Instructions—

Remittance: Remit by AIR/SEA mail.

Presentation and Advice:
- Present on arrival of MAIL/GOODS.
- If unaccepted / unpaid: Protest / Do not protest / Advise in case of need.
- Advise non-payment / payment by: cable / air mail / sea mail

Clauses:
- Payable at collecting bank's selling rate for / Payable by approved bank's: Telegraphic Transfer / Sight draft on London / 90 d/s draft on London
- Payable with: exchange / stamps / banker's charges / interest at ... .% from date of draft until approximate date of arrival of remittance in London.

Documents:
- To be surrendered on acceptance / payment
- If on payment state if rebate is allowed; if so: period / rate

Other Instructions—

Signature

Mandate Derived

The instructions contained in the form give the bank authority to act as the customer's collecting agent. The first paragraph calls for nothing but common sense in completing it by the deletion of "I" or "We" according to whether the customer is a person, or a partnership or limited company who naturally use the plural form of the pronoun. A customer who has more than one account with the bank, indicates in the space provided which account is to be credited with the eventual proceeds.

The Bank Forward the Documents

The clause marked (i) shows that the bank follow usual commercial practice in not remitting by one mail all the documents of title to goods. This practice has been referred to already. If the customer wants some departure from normal usage to be made, he can do so in "Other instructions" at the foot of the form. This does arise in practice where the original and duplicate consular invoice have both to be presented as soon as possible to the customs authorities in the buyer's port (e.g. goods going to Turkey).

Foreign Agent

In clause (ii) the bank insert the name of their own branch (if any) or their correspondent at the drawee's centre, to whom they are sending the bill. If the customer wishes to have the collection made through a particular bank in the drawee's centre, possibly the drawee's bank, attention should be drawn to the point when the form is handed in. Otherwise the bank use their usual correspondent, and it is intended that the customer shall bear the credit risk; if the correspondent fails, that is part of the risk undertaken by the customer from which his banker stands aloof (if he can) as being merely an agent or intermediary acting on the customer's behalf.

Incidence of Expenses

Some or all of the charges, bill stamps, commission and

other expenses may have to be borne by the debtor under his contract to purchase the goods. When these are claimed from him, he may refuse to pay them because he reads the contract differently from the creditor. Should this occur, or should he be unable or unwilling to meet the bill of exchange, the bank take authority in the third clause to charge up all expenses incurred to their customer, the drawer.

The Bank's Interest in the Bill

Clause (iv) is inserted in case the bank have some interest in the bill beyond that of mere collecting agent. They may have made an advance to the customer against all his bills in course of collection, or they may have given discounting facilities against some prior bills and have a general charge against all the customer's bills. In these and the other cases referred to in Chapter V, they get the customer's signature to a general letter of hypothecation, the document mentioned in the clause at present under review.

Details and Dates

The customer proceeds to insert in the spaces provided the details of his bill and the documents attached to it. If he often collects sums due to him by drawing bills, he gives each one a reference number in his own bills receivable book, which number he puts on the bill itself and on the bank's form. He also uses the number as a reference consistently throughout his own books of account. If the bill is not drawn "In a set" he draws a "Sola" of exchange, and inserts "No" or "Sola" in the second space; but if he has also drawn a second of exchange or second and third, he inserts the appropriate remark. The fourth space is for the usance of the bill, the period for which it is drawn. This may be "at sight" or at some period (e.g. 90 days) after sight, when he inserts "St." or "90 d/s" as the case may be. If the bill is drawn at some period After Date, e.g. where the buyer of the goods F.O.B. is required by his contract to pay at some agreed period from the day the goods are sent off to him, then the customer should

insert the date of the bill as well as the usance, e.g. 3 mths/date: dated 30.6.19.... The date of the bill of exchange should be the same as that on the bill of lading in this case.

Reference to Documents. As stated in Chapter III in regard to the bill of lading, this document is referred to by the number of parts handed over and the number in the complete set. If the bank have any interest in the transaction beyond that of collecting agent they see that they get the full set. The first space in the specification of documents is filled in by inserting "3/3" or "2/2," etc., and the same method may be adopted in regard to the invoice (third space). If three invoices, original and two copies, were originally made out by the drawer and all are handed to the bank he can insert "3/3" under "Invoice." Under "Insurance" is written, for example, "Policy No..... of the Exporters Insurance Co.," "Our Certificate No. ....," thus giving the type of insurance document as well as the serial number, and usually also the name of the insurer. Should the insurance policy or certificate be handed to the bank in duplicate or triplicate a note of the fact is made. The form "1/2," "3/3," etc., may again be used, though not strictly correct.

The consular invoice and other documents are similarly recorded: these and their use are explained in Chapter III.

Eventualities. The instructions which are printed in the bottom part of the form are so designed that the customer has merely to delete some of the words, and possibly to insert "AND" where applicable, in order to convey complete instructions to the bank and thus to tell them what they are to do in certain eventualities.

Remittance. The "remittance" refers to the manner in which the bill and documents are to be sent abroad. The provisions of clause (i) at the head of the form should here be borne in mind, for if the customer asks for a relatively heavy bundle of documents to be sent by air mail he may find the expense involved rather large in proportion to the saving of time effected. He may be prepared to authorize the bank to send the documents by air as "commercial paper"

(it may be possible to send such documents as bills of lading, invoices, etc., at a cheap air-mail rate); if that is so, he should amplify the first instruction.

Instructions to Foreign Agent. The foreign correspondents of the "exporters' bank" will be given their instructions on the basis of the remaining directions. The drawer must see that the bill he draws calls for performance by the drawee of those duties (and payment of relative expenses) laid to his charge by the terms of the original contract, and nothing more, and that the instructions conveyed to the presenting bank accord with those terms. If a C.I.F. or F.O.B. contract gives rise to the bill, the drawee must pay or accept on arrival of the documents, so the drawer instructs the bank to present on arrival of the mail carrying the bill and documents. On the other hand, if the contract were of the "good delivery" or "ex-ship" type, the drawee will only pay on arrival of the goods, and it would be fruitless to present the bill before the ship bearing the goods had reached his port. In this case, the drawer must instruct the bank to "Present on arrival of goods" (deleting the word "MAIL") and he is usually good enough to add "By s.s. . . ." (naming the vessel) in order to facilitate the bank's foreign correspondent.

Honour and Dishonour. Should payment be due at sight, the drawee's duty is to *pay* when the bill is presented. If a credit period has been arranged, e.g. 90 days after sight, then he must *accept* the bill when presented. The next instruction says what the foreign correspondent is to do if payment or acceptance is not made by the drawee: if he is to incur the expense of calling in a notary in order to protest the bill, which is the first step towards litigation, he should be told to do so (see Bills of Exchange Act, 1882, Section 51, for the British law in regard to noting and protest). In many foreign countries this is an expensive matter, not lightly to be entered into, particularly where the drawee has refused the bill on some point which can be easily rectified. It may be that one of the documents is not quite in order and he objects to taking them on those grounds. Or one of the documents which he has a

right to expect may not be attached to the bill, but may actually be on the way to him. If his refusal is for some reason such as one of these it is an obvious waste of money to start the legal machinery.

Avoiding Fruitless Expense. Another case in which it is undesirable for protest to be made is in a country where the legal process is uncertain, or even corrupt, in which case the drawer having taken a risk in the matter with his eyes open from the start, will hardly throw good money after bad. If the drawee in such a case wants to avoid the contract, legal expenses will not be fruitlessly incurred. The drawer will find an alternative buyer for the goods, cut his loss as best he can, and desist from selling goods to the defaulter.

The instructions which the drawer gives in connection with protest or non-protest sometimes take the form of a rubber stamp on the bill, which may merely consist of the initials "N/N" (i.e. "no noting" or "incur no notarial charges"), or the words "incur no expenses." In the event of no express direction to the contrary the "no expenses" are assumed by the collecting bank to refer primarily to the legal steps of Noting and/or Protest, but in any case the bank will require precise instructions. They are always pleased to say if protest is advisable or not in specific countries, but they will not take a lodgment form which leaves the matter to their discretion.

Case of Need. Should the drawer have an agent or branch house in the drawee's centre, they will insert the name of that agent or branch as "case of need." This arises particularly in the case of a territory for which the exporter has appointed a *del credere* agent. If now the bill is refused the matter can be referred to the agent or branch, and they with their knowledge of local conditions will know what is best to be done in the drawer's interests. It can be left to them whether the bill is to be protested or not, and whether or not a cable advice need be sent for the drawer's information. But if the name of a case of need is inserted, the bank will want to know the exact extent of his powers by a definition either after his name or by extension into the "other instructions" at the foot of the

form. It is important that the bank should know if the case of need may authorize that the drawee be given time in which to pay, and if access to the goods is one of his rights as the drawer's representative on the spot.

Advices. The foreign correspondent will not cable advice of non-payment or non-acceptance on his own responsibility, he must be told what he is to do. The same applies to the manner in which the advice is to be sent if payment or acceptance is duly made (next direction).

Return Remittance. By the first "clauses" instruction the drawer will also indicate how the money received by the foreign correspondent is to be sent home. This "return remittance" must be in the form contemplated by the original contract; the drawee will object if he is called upon unexpectedly to pay for an expensive cable advising payment, and he would have to pay more of his own money to meet a bill for a stated sum by cable transfer than if proceeds were by mail. This he will not do unless he is bound by his contract. The drawer may be prepared to meet him half-way by paying the cable charge, in which case he should tell his bank so when handing them the bill.

Exchange Clauses. Should the drawer have a right to expect the drawee to pay more than it would cost to buy a banker's draft or mail transfer on London, the bill of exchange itself should contain in the wording on its face a "clause." The use of "clauses" is recognized by the Bills of Exchange Act. Various types of clauses are used in trade with different centres; the principal ones are as follows—

(1) **South America**: it was at one time common for the return remittance to be by banker's 90 d/s draft, particularly in the case of Brazil. After a period in which the practice appeared to be falling into disuse it showed some signs of being revived. Unless he has specifically agreed to make a sight or cable payment, the Brazilian drawee might expect to pay less of his own money in the purchase of the 90 d/s draft, and if there is to be no doubt of the drawer's intention he must clause his bill "Payable by return remittance at

sight" or ". . . 90 days sight" as the case may be. He usually introduces the words "by approved banker's draft," as otherwise the drawee could send a trade bill. It is worthy of emphasis that the return remittance is not sent to the exporter's bank until the expiry of the original credit period; in the case of an original credit of 90 days, the drawer who is paid by a return bill at 90 d/s has to wait for his money 180 days plus twice the time taken by the mail (once out and once home), plus three days of grace on the bill drawn on the U.K.

(2) **Australia, New Zealand, etc.:** unless arranged to the contrary, British exporters to Australasia expect to receive the full amounts of their invoices. In order to do this they draw bills which bear, as part of the wording, the clause "Payable with exchange, stamps and all charges for collection," or some slight variant of that phrase. A bill thus drawn makes it clear that the drawer expects, from the contract or usual course of trade, to receive the net amount of the invoice for which he draws his bill. The price was quoted in British pounds (sterling) notwithstanding the fact that Australians and New Zealanders use a currency called "pounds." The difference in exchange between the two "pounds," dominion bill-stamp (British bill-stamp is already on, of course) and the charges made by the exporter's bank and their dominion agent, are all collected from the drawee.

A bill drawn in dominion pounds is comparatively rare: when such a bill is drawn it may possibly call for payment by the drawee of collecting charges and/or dominion stamp, though this again is not likely. The use of all "clauses" is normally confined to bills drawn in pounds sterling. (See Chapter V for the clauses used in trade with Australasia when the bill is negotiated.)

(3) **South Africa:** in arranging to export goods to South Africa, the seller expects to make no exchange loss unless his contract expressly stipulates the contrary. In order to ensure that any loss or profit on the payment in South African pounds of a sterling bill shall fall to the drawee, the bill should be claused "Payable at collecting bank's selling rate for sight

drafts on London." The dominion correspondent of the exporter's bank arranges the exchange with the drawee so that the face (sterling) amount is remitted home, though the stamp charge in South Africa and the bank's collecting commission are borne by the drawer.

An alternative wording to this clause uses the word "drawing" in place of "selling," which amounts to the same thing. The alternative envisages the return remittance by a banker's draft *drawn* by the collecting bank, but as this is *sold* to the original drawee, whether a draft or mail payment is actually sent, the difference is merely one of terminology.

(4) **Bills on India, the Far East, and East Africa:** an "interest clause" is often used, particularly where the drawee is a native importer. The drawer receives in payment not only the amount of the bill of exchange, but also interest from the date of it until the proceeds arrive. There are a number of variations by which the drawee is required to remit home by cable or may avoid or pay stamps and charges, but the commonest clause is worded "Payable at collecting bank's selling rate for sight drafts on London with interest at . . . per cent per annum from date hereof until approximate date of arrival of remittance in London." Instead of "collecting bank" the name of a specific bank may be stated. The Eastern banks advise the big shippers of any changes in the interest rate appropriate to these bills; shippers who are not so advised can find it out, by telephone or by mail, or by asking their clearing bankers. The drawer of the bill himself inserts the rate of interest in the gap: the rate applied is the loan rate in the Eastern or other centre concerned. Unless the collecting bank's lodgment form otherwise instructs, the local charges are also collected from the drawee, but the exporter's bank charge the drawer with their commission.

(5) **General Clauses.** There are many clauses which vary in some slight detail from the types commented upon in the foregoing paragraphs. There are yet others which fall into classes according to their purpose, the most important being of the kind which states who is to fix the exchange. One such

clause is "Payable at collecting bank's selling rate for sight drafts on London," and even if no such clause occurs in the wording of a sterling bill, the probability is that the drawer will authorize his bank in the bill lodgement to collect in that manner. On many occasions the arrangement works perfectly, the drawee agreeing to the conversion by the collecting bank because the rate they apply is strictly competitive; he gets as good a rate from them as he could get from any other bank in his centre, and is thus satisfied.

Misunderstanding can arise on the point of who is to fix the exchange, however, if no agreement exists on the point between drawer and drawee. The drawee knows that he has a certain debt to meet, and he knows that he will have to pay on or about a certain date; he knows he will have to pay a certain sum in foreign money on that date, and in the interim he can go to his bankers and arrange the exchange on a "forward" basis (see Chapter VIII for explanation). The exchange is then fixed by *his* bankers, thus neither by those of the drawer nor by the foreign correspondent of the drawer's bank. When the time comes to meet the sterling bill the drawee will expect to pay by a draft on London in pounds sterling issued by his banker. The clause which should be put on a bill payable by the tender of a draft by the drawee's bank is the one which says "Payable by approved banker's draft on London."

The way out of the difficulty thus arising is for buyers and sellers to arrange this detail when they agree on the price of the goods. It should be borne in mind that it is normally sound practice for forward exchange to be covered, and it is in the interests of the exporter as well as the importer. It is essential that the bill arising out of the contract (by which eventual performance is provided for) should use the exchange clause to which the terms and practice of the trade implicitly give rise, and no other. When the bill of exchange is lodged with a bank the instructions given in the lodgment form must agree with both the clauses in the bill and the terms of the contract. It may be that the bill form used by the drawer will not leave room for the insertion of a clause; in that case

the clause is often omitted. Where the omitted clause should have been of the "collecting bank's selling rate" or the "approved draft" type, instructions can be given to the collecting bank by deletion of the unnecessary words on the lodgment form, and the omission of the clause from the bill itself is not a vital matter. The use of the form ensures the collection of the bill according to the intention of the parties, and that is the material point.

How Far is Drawee Trusted? Reverting to the specimen bill lodgment form, the next instruction refers to the documents of title attached to the bill of exchange. This direction involves a most important matter, which is the extent of the drawer's trust in the drawee. If the bill is at sight, the documents are handed over when the drawee pays and no further faith in the drawee is called for, but if the bill is payable at some period after date or after sight, the bank must be instructed whether the drawee is to be allowed to have the documents when he merely accepts by writing his name across the face of the bill, or whether those documents are to be withheld from him until he pays. If the instruction to the bank is "D/P," documents on payment, the drawee may be entitled to rebate if he takes up the bill before it is due. This right may be mentioned in the original contract, and that document might even fix the rate of rebate to which he had a right. The completion of the form must accord with the contract, a point which the drawer has to bear in mind.

Other Directions. The space for "Other instructions" may not be necessary in some cases, but in practice it often proves very useful. However comprehensive the exporter's bank make their printed form, some unusual type of contract, some unusual event, or some foreign law, may render additional directions vital.

(1) **Protection of Exporter's Interests on Dishonour.** The commonest use of the "Other instructions" space is to instruct the bank what is to be done with the goods if the drawee refuses to pay. The drawer does not want his goods dumped on a quay in some distant port and there left to rot. He tells

his bank to arrange for their correspondent at the drawee's port to take up the goods in case the bill is not paid, to warehouse them and (if possible) to insure them against fire, pilferage and other risks and to pay the expenses involved. In the meantime the advice of non-payment will have reached him in accordance with his instructions given earlier in the form, and he can arrange to dispose of the goods to another buyer. Then later he can consider what form his claim against the defaulting buyer should take under the contract and whether that buyer is of sufficient substance to be worth sueing in the courts.

(2) **Unusual Procedure.** A second possible use of the space for additional instructions is where the laws of the country of import (the buyer's country) call for some unusual procedure. It may be essential for the buyer to produce the documents to his fiscal authorities before he is allowed to buy pounds in order to meet the bill (as in the Argentine—see Exchange Restrictions in Chapter IX). This involves trusting the buyer with the documents before he pays, a point on which the collecting bank require very definite instructions.

(3) **Buyer's Access to the Goods.** The arrangement with the drawee, particularly where the goods are being sold by him as agent of the drawer (where the goods are "On consignment"), may involve giving him access to the goods in order to dispose of them. He may be authorized to sell the consignment in lots, in which case the bank require instructions on the point; they are entitled to ask "Is the drawee to sign a trust receipt?" (*q.v.* in Chapter VI), and "Is the drawee to pay the whole amount of the bill when he has sold all the goods, or must he pay our correspondent *pro rata* for each lot as he sells it?" This and other less usual contracts for sale of goods give rise to varying additional directions in the last space on the form.

Sterling or Currency

The form which we have considered is intended for use when the bill is drawn in sterling. The bill should be drawn in the money in which the original price was quoted, a point

which might seem trifling but which is really of the greatest importance. Debtors who owe money, and creditors who are owed, often ask their bankers to quote a rate for conversion when no such exchange is incumbent upon them. If there is a reasonable doubt, the foreign exchange departments of the banks are always ready and willing to help, but the safe course is for the debtor to remit or for the creditor to draw in the currency in which the price is quoted and in which the invoice is made out.

Foreign Currency Bill Lodgement

Where a bill is drawn in foreign currency the lodgement form used differs only in detail from the "STG" one, of which an example is given here. Some of the banks use a common form for bills in both home and foreign currencies. The main point of difference, where distinct forms are employed, is that the foreign currency bill lodgement gives more precise instructions in regard to the manner in which proceeds are to be sent back when the bill is paid. In the case of a sterling bill, the manner in which the return remittance is to be made is provided for in the clause on the bill, whether payable by "T/T," draft or otherwise. The bill drawn in foreign currency demands of the drawee a sum in his own money. If he pays that he has usually done with the transaction, and any expenses involved in cabling or sending advice of payment by air mail are at the charge of the drawer, and will only be undertaken by the collecting bank if the drawer so instructs them in his lodgment form. To this general statement one exception may be noted: for if the drawer who has not asked for "cabled advice" is getting anxious to know if the bill has been paid at some time after it should have been met, his bank will always be pleased to put through an inquiry, at his expense, by cable or air mail. It should be noted, however, that to cable out asking for advice to be cabled back costs *two* cables, whereas if the exporter's original instructions had included an indication that advice was to be cabled, it would only have cost him *one* cable fee.

Avoiding Bank Intervention

There are two ways in which the exporter may avoid passing a bill through a bank for collection. In the first of these he draws a bill at some period after date or sight under a contract allowing the debtor a credit period. This bill he sends direct to the drawee, with the documents, thus trusting the drawee to accept the bill and return it to him. In the second case he does not draw a bill at all, but hands the documents to his bank, with instructions that those documents are to be handed over to the debtor on payment of the invoice amount. This course is followed only where the contract calls for sight payment.

In either case the value of having an "Instrument" of credit, a bill of exchange, is lost. In the first case the drawee may delay the return of the bill in order to gain time, without giving the drawer the opportunity to prove that this has been done, and the *extreme* risk is that the drawee may keep the documents (and thus get the goods) yet never return the bill with his acceptance on it. Had this bill been put through a bank with "D/A" instructions the drawee would have had to accept the bill before getting the documents, and the drawer would have obtained an instrument on which he could sue without reference to the contract for sale of goods. If he lets the debtor have the documents without acceptance of a bill as a condition precedent, he must prove on the debt for the goods by producing all the evidence.

In regard to the second case, there is little object in getting the bank to collect payment against documents, without drawing. The saving amounts to a twopenny revenue stamp and the cost of the bill form.

CHAPTER V

FINANCE FOR THE EXPORTER

THE exporter who has sold to a buyer abroad on certain terms embodied in a contract, and who then sends off the documents to his buyer and awaits a remittance, may have to wait a considerable time for his money. Should the debtor's remittance be due by ordinary mail, then he must wait at least twice the mail period, even if the debtor is prompt in his payment. An arrangement may be made by which the exporter sends the documents direct, but instead of awaiting the debtor's pleasure he draws a bill on him. Such a bill is not a "Documentary Bill"; it has no documents attached to it and is thus called "Clean." By following this course the exporter may save something in collecting commission, as his bank charge more where they have the trouble of handling the documents. The bank might charge ¼ per cent (5s. per £100) for collecting a documentary bill, but only half that fee (⅛ per cent or 2s. 6d. per £100) on a clean one, with a certain minimum for small bills in either case. The only noteworthy exception arises in the case of bills handled by certain of the dominion banks, as explained later in this chapter.

A Banking Function Justified

Whether the debtor remits or is drawn upon by a bill at sight or at usance, the exporter has to wait for a remittance or a letter of advice to come back from the drawee's centre before he gets his money. He loses the use of part of his floating capital, which is so vital to his business, since he could turn it over to good advantage in further trade. In order to assist here the banks perform a function vital to modern commerce: they finance exporters by lending money against the security of bills or by buying those bills. There is the important reservation to be made on behalf of the banks, that they will only

do this if the exporter is a sound party. If they know him to be financially sound, of reasonable standing and integrity, and if he is employing a sufficient sum of his own money in his business to justify their action, they will accommodate him according to his requirements. It is not reasonable to expect the banks to risk their depositors' funds if they are uncertain on any of the points mentioned, or if they have a reasonable suspicion that the exporter is over-trading. The limit of accommodation granted to any particular exporter depends on the normal turnover in his trade during his seasonal or general activity and on the size of his particular business. Should the exporter be a partnership or limited company the same observations apply, though in the last case the application for facilities is more commonly accompanied by balance sheets and other evidence from which general standing can be judged.

Methods

The consideration of the methods by which the finance of exporters' bills is arranged falls naturally into four divisions. Differences arise from the quotation of prices of exports in in different currencies, from the peculiar customs of trade with certain countries, and from the varying needs of different exporters. The bank may be called upon to give the exporter the full amount of the bill he offers, i.e. to buy it from him. The alternative course is for the bank to regard the bill and documents as their security for an advance of less than the full amount of the bills. My first and second divisions (below) are concerned with the "discount" and "negotiation" of bills respectively, in either of which cases the bank buy the bill; my third and fourth show how credit is given for part of the bill, by loan- or overdraft-advances and acceptance credit facilities respectively.

The bank will only enter into the business of discounting, negotiating or advancing against a bill if they are reasonably certain that financial difficulties in the drawee's country do not preclude the exchange operation which necessarily occurs. They must be certain not only that the drawee will be allowed

to discharge his debt by payment in his own currency in some way, but also that the frontier will not provide an insuperable barrier to "getting the money out of the country." This is known as the Transfer Risk, and is explained in greater detail in Chapter IX.

Different types of banks have a different basis of approach to the negotiation of bills. Thus the dominion, colonial, and eastern banks will look at any particular bill and say, after investigation and consideration, whether or not they are prepared to handle it. This means they incline to accept business in bills at *standard* rates. On the other hand, the merchant banks and some of the clearing banks can sometimes be persuaded to shade their standard rates according to the nature of the business: in any case they do not publish their rates for discounting or negotiation but, so far as can be discovered, they seem to follow the old bill-market adage "the better the bill the better the rate." So, for example, they have given much better rates for the bills arising from trade where the exporter covers the credit and transfer risks with the Export Credits Guarantee Department, as explained in Chapter VII.

(1) Discount of Sterling Bills

As we have seen, a sale of goods at a price quoted in sterling gives rise to a sterling bill. Should the seller approach the bank with a bill he has drawn in sterling on the buyer who has now become the drawee (the debtor for the goods), the bank is concerned with the standing of both the parties. The bank are asked to buy the bill, and they will only do so if they are reasonably certain that the drawee will pay it when it is presented to him for payment. They have means of finding out whether the credit risk of the drawee is a reasonable one for them to undertake (see Chapter VII on the Credit Factor). If the drawee refuses to pay, then they come back on their customer, the exporter, who undertakes by signing the bill as drawer that the bill will be met. They have "recourse" to the drawer, to use the legal term.

It is worth emphasizing that the bank which is "discounting"

a bill of exchange (or, otherwise, "negotiating" a bill drawn in sterling pounds) is really *buying* it in the sense that it pays its customer the present value of the debt which it is going to collect overseas at some future time. The bank thus places at the disposal of the customer a sum of money immediately in return for a debt of which it is later to receive payment: the customer is thus required to assume the responsibility that the debt does in fact exist, and that the debtor will honour the obligation.

Clean v. Documentary Bills. The bank may be prepared to discount clean bills; but if both drawee and drawer are unable to meet the bill, the bank are left with a bad debt for the amount of it and the expenses they incur, less anything they might recover in the bankruptcies of the two parties. As a consequence, banks prefer documentary bills where they also have the security of the goods exported. If they get the documents of title when they discount, they see that those documents are in such a form as to give them the property in the goods. For this reason, the documents lodged with a discount are subjected to a closer scrutiny than if merely "For collection." The full set of B/L is required by the bank and they will see that the B/L is endorsed in blank (i.e. endorsed by the exporter to whose order it is made out, or if merely "To order" then endorsed by the consignor named in the B/L): they will see that the insurance policy is made out to the exporter or consignor, and is endorsed in blank, and if a "certificate" of insurance is given them instead, they require the relevant policy to be lodged with them until the bill is paid. They will be more particular to see that the freight is prepaid, and the B/L marked to that effect, if the goods concerned are subject to a high rate of freight in proportion to value. The matter may be summarized by saying that the bank will do all they can to perfect their security in the merchandise itself, and the experts employed in this part of the bank's activities make it their business to be well acquainted with the peculiarities of the trade in the goods concerned.

It should be noted that the banker's usual documentary

collection charge is not waived when he discounts a bill: but this general statement is designed to cover the general case. There are apparent contradictions, as where the dominion banks fix their schedules on the basis of documentary bills—which form the large bulk of their business—and are not prepared to make special concessions for odd and occasional clean collections.

Direct and Secondary Contracts. The discount of a documentary bill on a foreign drawee is the subject of a contract between the bank and the customer. Not only is a documentary bill lodgement form completed by the customer, but also a letter of hypothecation as mentioned in clause (iv) of the specimen lodgement form; the matter is mentioned here in order to refer to the fact that the bank who get this form signed have a general "lien" (a general right to take as security) covering all the bills lodged by a particular customer in case the special one discounted should be unpaid.

Charges and Discounts. Whether the bill is discounted or collected the usual fee for the collection service is charged, but when the former course is taken, the customer is credited immediately with the present value of a debt payable at some time in the future. The exporter gets his money now instead of having to wait for the return remittance from abroad, and the payment he makes to the bank for the facility is quoted as a rate per cent per annum. This "discount" rate varies according to the grading of the drawer and drawee from the viewpoint of credit. In normal transactions between banker and customer it coincides with the loan and overdraft rate. The customer gets immediately the face amount of the bill (less collecting charges unless those are payable by drawee) less discount at the rate of, say, 4 per cent per annum. Normally he can "turn over his money" in his business to bring him in, it may be, 10 per cent or it may be 20 per cent, the difference between this and the discount rate being of great importance to him in adding very largely to his profits. What it amounts to is that he is using the bank's money whilst the bill is in course.

Period of Discount. The period for which the discount is charged depends on the "usance" at which the bill is drawn. If a bill is drawn at, say, three months date the bank know the exact date on which it is due for payment. They charge discount for the number of days from the day on which the deal is done until the return remittance is expected to reach them, having regard to the clause on the bill which shows whether that will be by cable or by mail.

A bill drawn payable at sight would be discounted similarly according to its clause; if no clause is inserted the period is twice that usually taken by the mail, plus the time usually taken up by getting the bill presented. For example, a bill on New York usually takes eight days on the outward mail to the collecting correspondent, is presented by him on the day the mail arrives, and the return remittance takes another eight days, making sixteen days in all as the usual period used in the discount calculation for New York bills. Had the bill been on Chicago, it would have been necessary to add twice the extra mail-time involved in going on there from New York.

A bill drawn, for example, payable at "90 d/s" has to go out to the drawee's centre by mail and be "sighted" by him before the 90 days commence to run. Then when he pays a return remittance is sent, so that the total period involved is 90 days plus twice the time taken by the mail. In the case of bills drawn payable in the United Kingdom three extra days (known as "days of grace") have also to be allowed for, but the practice is only common abroad in British dominions, and this does not enter into the calculations when the bill is payable outside the U.K. or dominions.

Effect of " Clauses." In giving a customer the proceeds of a discounted bill, the bank naturally have reference to the clause with which it is enfaced. They will only charge him with foreign bill stamps, agents' charges and their own commission if it is not provided that the drawee must pay those expenses.

A clause is sometimes used of the "Exchange as per endorsement" type. The exact words used here may be inserted in

the bill, or some slight variant may be employed. When a bill with this type of clause is negotiated the bank give the drawer the full face value of the bill without deduction of discount, only charging the drawer such of the expenses as are not laid upon the drawee by an additional phrase in the clause. The banks then recoup themselves for discount by converting the bill into the drawee's currency at a rate which allows for that item. Their rate of exchange is varied in such a way as to charge the drawee more of his money to discharge the debt than if the discount had been borne by the drawer. Such clauses should only be used if the original contract either specifically mentioned the point, or gave rise to it by implication, or if it is usual practice in the trade and no mention of the point is made in the contract.

In the Australasian trade a particular clause is used very widely. It reads "Payable with exchange and stamps for negotiating bills on Australia (or New Zealand, etc.) as per endorsement." The drawer gets the full face sterling amount of the bill; the rate at which the conversion into Australian or New Zealand pounds is effected by the negotiating bank in order to determine the amount payable by the drawee, allows for collecting commission and discount for the period for which the bill is drawn plus the appropriate mail period. The London offices of the Australasian banks publish a list of buying rates which show the exchange applicable to bills at sight or at 30, 60, 90, and 120 d/s. ("After date" bills are rare in this trade.) The rates vary according to whether the bill is remitted by air or sea mail.

Whenever a bill on Australia is tendered for "negotiation" as it is called (which is virtually the same as discount), the published rate is applied. The bank endorse the bill on the back in these or similar words "Pay to the order of the Australian bank at the rate of £A . . . per £100 London." They then write above the sterling amount on the face of the bill the sum in Australian pounds and add the value of the Australian bill stamp which will be payable on arrival there. The total is the sum payable by the drawee.

Unless an Australian importer arranges to the contrary, he expects to pay in this manner, that being the custom. It is very dangerous for drawers of bills to attempt to avoid discount charges by using this type of clause in any trade where that is not the customary procedure. The drawee may refuse to pay the bill on the grounds that he had not been led by the original contract to expect that the exporter's discount would be added to what he has to pay. The point may be summarized by saying that exporters to Australasia normally expect to get the full amount of their invoices and quote prices with that in mind. Any cost arising from a credit period falls upon the buyer of the goods, and he directs the seller to draw on him by a bill at the usance which suits his financial arrangements. In other trades the seller quotes a higher price because he will not get net cash for the amount of his invoice; he must bear the expense of collection and the cost of reducing to a present value the debt payable at a future time.

(2) Negotiation of Bills in Foreign Currency

We have seen that the bill on Australia or New Zealand starts off as a bill in pounds sterling, but before it leaves the country it becomes a bill in dominion pounds. The exporter who draws the bill is paid the present value of a debt payable in a currency other than U.K. sterling and the transaction is thus referred to as "negotiation" and not a "discount" although the discount factor is equally present in both deals.

Bills *drawn* payable in currencies other than pounds are negotiated by banks in a fashion very similar to that employed with Australian instruments. The essential difference is that instead of starting with a known present value and calculating the amount in non-British currency eventually payable, the bank start with the known amount of foreign currency which will be eventually paid and calculate the present value in our money to be given the customer.

In order to do this, the present exchange rate on the centre concerned is taken as a basis. The bank base a calculation on the rate at which they would buy an instrument payable

at once in the foreign centre, and adjust that rate by a margin which gives less immediate value in pounds. In this margin they allow for all the expenses of collection, foreign bill stamps and discount of the bill in the foreign centre at the rate of discount applicable to the type of bill involved.

The bank also, of course, take the precautions of checking the credit standing of the parties and perfecting their security in the documents in the way explained earlier in this chapter under "Bills Discounted."

(3) Advances Against Bills

The exporter who seeks financial assistance from a bank is faced with the difficulty that the help he gets may prove unnecessarily expensive. This is more easily explained if we take the simplest possible example in which a large part of the floating capital of the exporter may be assumed to be tied up temporarily in one big transaction amounting, we will say, to £10,000; assume further that the period from drawing of the bill until payment abroad and the arrival of the return remittance is three months. The discount of that bill involves the exporter being given the full amount less discount at, say, 4 per cent per annum on the whole £10,000 for the full time. He is actually paying a rate of 1 per cent (4 per cent per annum for three months) for the financing of the operation, yet he may not require to use in his business more than a small part of the £10,000, or he may only need the bulk of it for part of the time. Under these circumstances, how much more satisfactory had the bill been given as security for a fluctuating advance! The exporter could then rely on the bank to accommodate him at 4 per cent per annum up to £10,000 (less a reasonable margin in favour of the bank) during the period involved, and proceed to enter on further business, happy in the knowledge that he is not paying for an advance of which he was not making full use.

Fluctuating Advances. The term "Fluctuating advance" does not necessarily mean an overdraft on current account; it may be arranged by loan account operations, but the point

is one of domestic arrangement between banker and customer, in regard to which any of the recognized banking textbooks give a detailed explanation.

An exporter who finds a number of foreign buyers for his wares, can to some extent overcome any difficulty by changing from discount to collection according to his current financial needs, but even so might find himself inconvenienced in filling an urgent order. He can never be sure of his future requirements in the way of finance with any degree of certainty, and it is often better for exporters to give the bank a letter of hypothecation over all their bills (explained more fully at the end of Chapter VI), lodge all those bills for collection, and then ask for accommodation as it becomes necessary, against the security of the bills already in course. This is not necessarily the best course in every case, or even in most cases, but it often proves a useful alternative to negotiation.

Bank's Margin Requirements. The bank always look for a margin of security and will be prepared to advance only a certain percentage of the total value of the bills outstanding at any one time. What margin they ask for depends entirely on the standing of the exporter and the class of importers with whom his transactions bring him into contact. In every case the bank seek to avoid undue credit risks and do not advance where many of the exporter's bills have given rise in the past to difficulties in securing payment, or in transferring funds home, or where the trade involved is a risky one.

Interest Bills. Some types of trade are habitually financed by means of advances against bills, and in at least one trade it is usual for each individual deal to give rise to a separate advance. Reference to Exchange Clauses in Chapter IV shows that the "interest" type is common in trade with the east, and the specimen documentary bill lodgment form shows how the exporter gives the relevant instruction by deleting certain words and leaving outstanding "Collect interest . . ., etc." The exporter who draws a bill enfaced with this clause may let it go forward for collection as he is in any case earning interest on his money. On the other hand, if he is in a position to use

those funds to better advantage in his business, he gets an advance by taking some of his bills to his own bank or to the London office of one of the eastern banks.

Advances against eastern bills are usually arranged on the basis of 75 per cent of face value without addition of the interest, the balance remaining with the bank on deposit. The exporter gets £75 now on a bill drawn for £100 plus interest, and a "Marginal deposit receipt" for the balance of £25. The bank insert the rate of interest on the bill, and collect it through their branch or agent in the drawee's centre in the east. When the proceeds are received, they retain the interest on £75 and give the original exporter his £25 against surrender of the receipt. They also give interest on the receipt at the rate inserted on the bill, but before paying over to the exporter his £25 plus his proportion of the interest they deduct their collecting fee.

The banks in the Far East are in a particularly favourable position for the handling of documentary collections. They maintain their own warehouses at the ports, at which they can store goods after landing, and the exporter's merchandise entrusted to them can be well looked after. When the native drawee of a bill pays it, the goods can be released to him. Most of the bills are of the "D/P" class, so that, although native importers expect to be drawn on at 90 or 120 days sight, the period involved in any particular case is merely one within which the drawee knows he can get the goods at any time he re-sells, and is not one in which he is entrusted with the exporter's money or money's worth. Branch offices of European concerns in the east are often pleased to be drawn upon on the same terms, as their re-sales are to native consumers or intermediaries.

(4) Exporters' Credits

Some saving can be made by exporters who habitually hand documentary collections to their bankers (the latter holding a letter of hypothecation) if the acceptance credit is employed. As we have seen, the trade bills in course are subject

to bankers' lien, and where this type of credit is used, the collections are referred to as "Lien bills" or "Bills en pension." The exporter who contemplates financing his operation by acceptance credit, approaches his bank for accommodation in that form, and the application is considered on the merits of the exporter's own standing, that of the usual drawees of his bills, and the margin of security which he proposes to give the bank. If a credit line is accorded the exporter, he then draws bills, according to his requirements, on his bank. These must not be confused with the lien bills, they are entirely separate. The bank accept them if they are in order and within the limit of total amount outstanding which has been agreed, and provided that the total security which the bank have in the form of "Liens" covers the bank acceptances with a good margin.

Relative Cost. Bills accepted by a well known bank are discountable in the London bill-market at much better rates than trade acceptances. "Bank" and "trade" rates of discount are published daily in the newspapers; on the day this chapter is written three months clean trade acceptances of the first class are being done at about 2½ per cent per annum, but bank bills for the same period are being discounted at under ¾ of 1 per cent per annum. The bank charge a commission for the service of acceptance which varies according to the agreement with the customer in each individual case. In a representative example, we may suppose ¼ of 1 per cent per three months has been arranged; then the facility costs the exporter four times ¼ of 1 per cent on a yearly basis, and he has also to pay the British bill stamp of 1s. per cent on each of four bills. To reduce all these expenses to a basis of comparison with the discount of trade bills, the exporter calculates as follows—

	per annum
Cost of discounting bank bill (say) ¾%	= 0·75%
Cost of bill stamps, 4 × 1/–	= 0·20%
Acceptance commission charged by the bank, 4 × ¼ .	= 1·00%
Total cost of finance by this method . . .	= 1·95%

Not only does this show him a saving which may run into considerable figures where the turnover is large, but it can be used where the lien bills are of a type which would not normally be discountable, as is explained later in the chapter.

The rate of 2½ per cent for trade bills quoted above was the rate which would be applied by the discount market to instruments of the highest class. Not only would they have to be both drawn and accepted, by an exporter and importer respectively of such undoubted standing in their trade that their names were widely known, but they would also have to be drawn on countries where no difficulty was likely to arise during the usance of the bill: that is to say, that if the drawee's country was one where political and monetary conditions were unsound, the discount market would be averse to taking the bills. D/P bills, or in fact any type of documentary bills, are not taken by the discount market, and the exporter cannot therefore justly compare the cost of finance by acceptance credit with anything short of a discount rate of 4 per cent (which rate was suggested in an earlier example) or one even higher than that.

Type of Lien Bills. The lien bills which are coming to banks from exporters who favour the acceptance credit, are at present largely of the type which would not be freely discounted or negotiated. Such are bills on the various South American countries whose recent monetary history does not make encouraging reading, on China where the threat of war is often present and on some Central European countries where financial stability is subordinated to political intrigue.

The use of the acceptance credit also permits the exporter to arrange a little judicious mixing of his bills, from the point of view of credit classification. Some of the foreign importers to whom he would like to sell his goods are not in a large way of business. Though he considers them a good risk, he can hardly expect his bank to discount bills drawn upon them, but he can put those bills in as liens, and thus possibly develop a line of trade which would not otherwise be open to him unless he were prepared to lock up much of his liquid capital.

On the other hand the average credit classification may be levelled up by the inclusion of bank bills drawn on foreign banks in foreign currency; this is useful where the importer abroad finds it easier or cheaper to get credits opened in this form than to arrange for sterling credits to be opened by his bank with their London agent, or where exchange restrictions allow him to open them in his own centre but not abroad. In this connection the British exporter can avail himself of any forward exchange facilities his bank are able to offer (Chapter VIII) in order to provide for eventual exchange into sterling, and legitimately include the bank bills with the general run of liens under his export credit in order to raise the average credit status of the security he is giving his bank.

Exports "on Consignment." It is, perhaps, in connection with the export of goods to agents and branch houses established abroad, that the "Exporters Credit" type of finance is both most valuable to traders and most liable to cause anxiety to the bank concerned. Particularly is this so where the foreign consignee of the goods is entrusted with the sale of them on commission on behalf of the exporter. The risk is that any misjudgment of potential markets may leave the exporter-principal with the difficult and expensive alternatives of either getting the goods sent back again or else finding some alternative foreign market for them. If the goods are specifically manufactured to meet the anticipated requirements of some native market of highly individual tastes, a misjudgment may mean that in the long run the merchandise will have to be abandoned.

However, in spite of the pessimism of the last sentence, exports on consignment to China, to other eastern countries, and to some South American centres have been in the past financed by exporters' credits.

At the time of writing, several factors combine to make such methods inapplicable. However, basic conditions will undoubtedly change and thus an examination of the practice is warranted. As a general rule, no "lien bill" is drawn, and the invoice is a *pro forma* one. The invoice is attached to the

bill of lading and insurance policy or certificate (and any other necessary documents) and the bundle is handed to the bank for collection. The bank are given instructions on the usual form, but great attention to certain of the directions is essential. Thus the foreign consignee of the goods is not usually given access to them after arrival, except for sampling; the goods are stored in a warehouse under the control of the collecting bank or their agent, and insured against fire, pilferage and other warehouse risks, at the ultimate expense of the consignor. As and when the selling agent disposes of the whole or any part of the merchandise, the proceeds, less expenses, are remitted home and held by the exporter's bank in order to meet the acceptances they have given.

Renewal Bills. Should there be any delay in receiving the proceeds of lien bills or consignment collections, the bank may be prepared to accept fresh bills in order to meet maturing obligations. When an extension is asked for in this form, the strictest inquiry is naturally made before it is granted, so that the exporter who is over-estimating the purchasing power or direction of effective demand in his market, is not carried indefinitely to the eventual detriment of the bank. If the bank are satisfied on these points, they accept renewal bills and charge a renewal commission.

When the Exporter's Credit is Best. The circumstances which would lead a bank to regard an application for an acceptance credit favourably are these—

(1) The exporter asks for permission to draw on the bank up to a reasonable proportion only of the lien bills or "consignments" outstanding in course of collection. The total of his bills in course amount, for example, to £25,000 as a usual average, and he asks for drawing facilities to the extent of a total of £15,000, or even less.

(2) The trade of the exporter which gives rise to the lien bills is to several different countries, thus giving the bank a "geographical spread" of risk.

(3) The exports are taken by several different importers in the countries concerned, not by one only in any country; the

bank, as well as the exporter, thus get the spread of the credit risk over several parties.

(4) If any of the merchandise goes to countries where exchange regulations are in force (see Chapter IX) the bank's past experience with collections on that country must have given them a favourable impression of the country's capacity to pay, and of their integrity. If a compulsory "exchange clearing" is in force between this and another country, the bank will not permit the inclusion of bills drawn on that other country in the total of the lien bills available as security. This arises from the fact that they cannot get a satisfactory charge over the proceeds of the collections. Even if they could do so, they would not be prepared to give acceptance facilities where collections through the clearing take a long time.

Home v. Foreign Money Rates. The acceptance credit facility is particularly valuable to exporters who quote prices in foreign currency, if the resultant bills are on countries where discount rates are higher than in London. We have observed that bills drawn in sterling are paid by a return remittance in that currency, and are thus discounted at London discount rates; we have seen, on the other hand, that a bill in foreign currency is negotiated at a rate of exchange based on the cost of discount in the foreign centre on which it is drawn. So if the foreign discount rate is higher than the London one, as so often happens, it would seem obvious that a course involving the discounting of bank bills in London would be cheaper by a much larger margin. Whether this proves to be so or not, depends in any particular case on the forward exchange rate, which is explained in Chapter VIII.

Bill for Bill. Acceptance credit facilities sometimes turn themselves in course of use into a "bill for bill" arrangement. Let us suppose, for example, that an exporter arranges to draw up to 60 per cent of his lien bills, and that his trade is of a fairly even year-round kind, with a regular flow of orders to him. On a particular day he has outstanding £10,000 in lien bills, and the outstanding bank bills drawn thereagainst and discounted in the past amount to £6000. He now exports

a further consignment, draws his trade bill for £1000 and takes it with the documents to his bank. He is at liberty to draw a further bill on the bank for an amount of £600, and he will in all probability do so in order to ensure the steady flow of ready money into his banking account, which is essential if he is to continue his steady flow of exports.

Bank's Irrevocable Liability. The bills which the bank accept are binding liabilities upon them. Although on the due dates they charge them to the customers who draw them, if the customer cannot meet any particular bill, that gives the bank no right to refuse payment. The bank must honour their acceptance by payment on the due date; normally the proceeds of the lien bills will be arriving and be credited to the customer's account, thus providing a balance from which can be met the liabilities undertaken for the customer by the bank. The great advantage to bank and customer is that, normally, the lien bills are "self-liquidating assets" which provide their own reservoir to meet the drain of maturing liabilities created against them.

In conclusion, it should not be overlooked that the bank are much more favourably disposed towards financing bills where the exporter uses the facilities of the Export Credits Guarantee Department in insuring against the credit and transfer risks, which are explained in Chapter VII.

CHAPTER VI

FINANCE FOR THE IMPORTER

THE purpose of this chapter is to consider the financial arrangements which have to be undertaken by importers generally, in order that they may achieve the end at which they aim—that is, a proficient conduct of trade. The topic falls naturally into two parts—

(*a*) How importers in the United Kingdom finance their business transactions; and

(*b*) How oversea buyers finance their imports of U.K. products, with related implications for the exporters.

In the main, U.K. imports of commodities may be divided into three categories for settlement purposes, according to the nature of the financial clause in the contract for sale and purchase of goods. These are (*a*) open account, (*b*) bill of exchange, and (*c*) bank credit. The first section of this chapter is therefore divided into the several parts which correspond to these divisions.

1 (*a*) Open-Account Finance for U.K. Importers

Here we are concerned with the settlement mechanism rather than the details of the book-keeping entries passed in the ledgers of buyer and seller; such details would be more in place in a book on accountancy. Thus, for present purposes, a start can be made from the assumption that a U.K. importer has entered upon a transaction, or a series of transactions, in which he buys merchandise from an oversea supplier. As and when he receives the shipping documents, the buyer credits the exporter's account with the invoice amounts—always assuming that the documents are found to be correct after checking—and the running conduct of the account gives rise to various debits and credits. Part of the

arrangement between the parties is that settlement should be effected periodically, say, end-monthly. On the settlement date it is then the duty of the buyer to compute the net amount for which he is debtor at that point of time, and take steps to transfer that balance to the creditor. Settlement would normally be made through bank channels, by buying a bank draft on the creditor's centre and remitting it to him, or by mail, air-mail or cable transfer. These bank facilities have already been explained.

An open account proves to be suitable at many points in the importing of commodities into this country. Thus it has virtually no alternative when the parties are, for example, the English branch of a dominion merchant firm buying from its head office abroad, or the U.K. subsidiary of a foreign manufacturer. As between independent parties it has not been so common in the past though the current tendency is for foreign manufacturers to offer open-account terms to substantial U.K. distributors.

The approach to open-account terms is, in many cases, complicated by two things: exchange regulations are one, and foreign currency prices are the other. It must not be overlooked that any U.K. importer must comply with the regulations governing the creation, recording and settlement of debts towards non-sterling countries; thus if X. Y. and Co. wish to open a current account (whether in U.K. sterling or in U.S. dollars) in their ledgers to record debts as they accrue due to an American supplier, this can only be done in special cases and after obtaining permission from the Exchange Control. This topic is relegated to Chapter IX for fuller examination.

Where the U.K. buyer purchases at prices in any currency other than U.K. pounds sterling, and assuming he has obtained any necessary permission, he can maintain an account to record the debts arising from his imports: there are "exchange risks," as examined in Chapter VIII. Periodical settlement can still be effected through the banks by M/T, A/M/T, or T/T. The banks cover the exchange transaction involved.

Since the resumption of peace-time trade after the war of 1935–45, the term "open account" has been used more as the opposite of "bill of exchange," rather than to imply any running account in the buyer's books. In other words, if statistics were compiled to record our visible import trade according to settlement terms, "open account" would represent the residue after deducting the items paid for by bills or bank credits, and this residue could be subdivided into a larger proportion of transactions settled as they arose, and a much smaller reciprocal going into periodical-settlement arrangements in the account-books of the parties.

In any case of single-transaction settlement, the importer, on receipt of the shipping documents representing a C.I.F. purchase, takes a copy of the settlement invoice to his bank and arranges for the funds to be remitted. Where the goods are imported from a non-sterling country, the necessary exchange-control application has to be completed and lodged with the bank, with such other documentation as is stipulated by the regulations in force at the time.

The open-account debtor who buys on "good delivery terms" (for example, at a price C.I.F. landed) operates in the same way, but not at the same time. Whereas it follows from the basic conditions of C.I.F. contract that the debtor must make provision for payment *on receipt of the documents*, it is implicit in a good-delivery contract that the obligation to make provision for payment does not arise until the *goods* arrive.

1 (*b*) Bill Finance for U.K. Importers

In this section, we are concerned with the methods by which a U.K. importer honours the payment obligation when it is arranged (or implied), in the course of the negotiations, that settlement is to be by bill of exchange. To take the simplest case first, suppose the parties have agreed that a *sight* bill is to be drawn; then the foreign seller draws a sight bill and lodges it with his own bank abroad. They in turn arrange for a London bank, being their English correspondent, to present the bill to the drawee and secure payment. The drawee

examines the documents, and he may give a banker's cheque in payment, but, in order to save trouble, the collecting bank usually take the drawee's own cheque on his banker made out in the words "Pay bill attached." The bill is thus not surrendered until payment of the cheque, but by pinning the two together it is ensured that the bill passes on payment.

It is worth noting, in passing, that the drawee is entitled to take "a reasonable time" for examination of documents. Thus it is quite common, where a bank official is presenting documents by hand, for them to be left (say) in the morning and for the official to call back in the afternoon for the cheque; indeed, more especially where the documents call for protracted examination, the drawee can quite reasonably ask and expect to be given a clear day for the purpose.

Discharge of Bills. Some dispute may arise if the price of the goods was originally quoted in foreign (non-British) currency, as the collecting bank may desire payment of the sterling equivalent of the currency amount of the resultant bill. By our law our own currency is the only "legal tender" by payment of which a debt may be discharged, but the drawee may have covered the exchange with his own bank and claim to pay by giving that bank's draft in foreign currency for the amount of the debt. The point is overcome in practice by the collecting bank telephoning the drawee to agree the rate, or requesting the drawee to telephone them on the point when he has examined the documents or by the insertion of the official rate (where applicable). Should it prove that the drawee has already covered exchange, the collecting bank are usually prepared to settle the matter amicably by accepting a draft for the currency amount, drawn on the centre where that currency is used, by the banker of the drawee of the instrument being collected. Nevertheless, much trouble could be saved for all parties if the buyer and seller had originally arranged the point, and if the seller had then given effect to the arrangement by clausing the bill and quoting in his instructions to the collecting bank *either*—

> "Payable at collecting bank's selling rate for sight drafts on X" or
>
> "Payable by approved banker's draft on X for full currency amount"

according to which of those clauses carries out the terms of the contract.

Accommodating the Drawee. A contract which calls for a credit period may lead to some demand for accommodation by the drawee, particularly if the bill drawn is of the "D/P" type. Where the drawee knows from the outset that he will not be allowed the goods until he pays, notwithstanding a credit of (say) 90 days from sight, he asks the drawer to arrange collection through his (the drawee's) bank. This is not so difficult as it may sound, as the large banks in London each act for many different oversea banks. The drawer, when lodging the collection with his bank in the oversea centre, may stipulate that it is to be passed through a particular bank in London, being the bank of the drawee. That London bank is, of course, placed in the position of acting as agent of the drawer's bank in the collecting of the bill, whilst also being in some form of relationship with the drawee. The arrangement has this advantage, that as bankers to the drawee they know his circumstances. They know how far he is to be trusted from the viewpoints of honour in his dealings, his credit worth by capital in his business, and the degree of business acumen he displays.

Access to Goods. Under these circumstances the bank may be prepared to depart from the instructions they have received from the oversea bank, by allowing the drawee access to the goods before he pays. If they do this, it is on their own responsibility entirely, and they do it in approved cases because they trust the drawee and wish to facilitate him in his business: it may be that they will be influenced in a particular case by the production of orders for the goods addressed to the importer by the domestic buyers to whom he has re-sold. The bank know their customer has a ready market for the goods and has

only to get them into his hands in order to sell them and get payment, and then be in a position to pay the bill they wish to collect. They may be further influenced in the matter by lodgment of some security with them; the customer may have the deeds of his warehouse or factory, or stock exchange securities, or documents of title to other goods the sale of which is not so pressing, which he is willing to lodge as "collateral," i.e. security for the due performance of the specific engagement.

The bank are here concerned to preserve the rights of themselves and their principals, the foreign bank, in the actual goods. If they let the customer take the goods and mix them with others, they will find it well-nigh impossible to trace the particular packages in which they are interested in such a manner that they could say in a law-court "These are the very goods which we handed our customer." There is also the risk that the customer might dispose of the more valuable or more easily realizable part of the consignment, use the money in some fashion other than towards payment of the bill, and then leave the bank with a remainder of small value or one which is not easily saleable.

The Trust Receipt. The difficulty is overcome by the use of a trust receipt (sometimes known as a "trust letter" or "trust engagement") which is a form designed by the banks for use where the customer is—

(*a*) drawee of a D/P bill; or

(*b*) original applicant for a documentary credit (see Credits in section 1 (*c*) of this chapter); or

(*c*) in domestic transactions where the security consists of merchandise: we are not concerned in this book with this use of the trust receipt.

(The use of trust receipts abroad by oversea banks who collect bills representing British exports is referred to in Chapter IV under Documentary Bill Lodgment—Other Instructions, and also in Chapter IX.)

A specimen trust receipt is given on page 101. The essential features of this form are—

(1) A schedule of the documents handed to the customer, together with particulars of the relative bill of exchange, and of the goods.

(2) An acknowledgment of the release of the documents; this is known legally as the "consideration," and is a sufficient one for the law to recognize the liabilities undertaken thereagainst.

(3) An undertaking by the customer to act as the bank's agent—

(*a*) in taking all the steps necessary to the disposal of the goods, keeping the proceeds of sales separate from all other moneys, and to pay in the proceeds so received to meet the particular bill. The bank keep a separate account for each trust engagement where the customer has many of them, as not infrequently happens;

(*b*) in storing the goods, but bearing the expense himself. The bank reserve the right to approve the store used;

(*c*) in keeping the goods separate from all others; the goods can thus be followed by the bank if they find it necessary to do so, or if they call for the return of such part as is yet unsold (see (4) below);

(*d*) in insuring against fire; here appear also any other risks which the bank require the customer to cover and which they insert before he signs the form. The bank have the right to approve the insurers.

(4) An agreement to return the goods, or any part not yet sold, to the bank at any time they choose to call for them.

(5) The signature by the customer over a 6d. adhesive stamp.

Use of the Facility. By the use of this form, the difficulties of both bank and customer are largely overcome. The bank retain their legal formula of security in a manner which the Courts recognize, and the customer is able to dispose of the goods and get payment before he himself has to pay. If he sells in partial deliveries he can pay in each separate amount received and the bank place the amounts in reduction of the

TRUST RECEIPT

London (date) .. .. .

To THE MANAGER
COLLECTING BANK LTD.
LONDON

DEAR SIR,

(2) In consideration of the release to me/us of the undermentioned
(3) documents under lien to you, I/we engage to land, store and hold the goods represented thereby as Trustee for and on behalf of the Bank. I/We undertake that the said goods shall be lodged and kept in an approved warehouse separate from our other goods, and separate from those of other parties, and that the proceeds of the sale(s) of the said goods shall be received by me/us as Trustee for the Bank, kept separate from all other my/our moneys and separate from the moneys of other parties, and paid to the Bank as and when received, I/we advising the Bank of the account on which such payment is made, and I/we undertake to provide the Bank by this or other means with sufficient funds to meet the said draft not less than three clear days before maturity.

I/We also undertake to keep the goods fully insured against fire with approved insurers, and to hand to the Bank the relative policy(ies) and all amounts as and when received from the said or other insurers in respect of the merchandise.

(4) I/We further undertake to return to the Bank on demand in writing at any time the said Documents or to deliver up to the Bank the said goods or any part thereof.

Yours faithfully,
For and on behalf of IMPORTERS, LTD.

6d. Stamp

(5) (Signed) .. . .

(1) Bill of Exchange referred to herein—

Bank Reference No.	Foreign Remitter	Usance	Due	Amount

(1) Schedule of Documents—

Invoice	Bill of Lading	Insurance	Other Documents

(1) Details of Merchandise—

Quantity or Weight	Description	Marks	Vessel	Other Particulars

customer's liability on that particular engagement. Should his buyers offer to pay by acceptances at some period after date or sight, the approval of the bank is called for; if those buyers are of such standing that the bank will discount their bills, a method is then open for the original collection item to be provided for. On the other hand, if the buyers are not considered good for the amounts, or if the collecting bank know nothing of them, the importer must either refuse their orders or ask them to get their bankers, in turn, to intervene as acceptors, in which case he again gets a freely discountable bill in payment for the goods.

It must be emphasized that the trust receipt is normally only called for in the case of D/P bills. A bill received for collection by a British bank drawn from abroad on a domestic importer and bearing the D/A instruction, permits the drawee to take the documents when he accepts. During the usance of the bill he can sell the goods without the necessity of further intervention by the bank, except for the purely domestic transactions to which his re-sales might give rise.

It is only rarely that the drawee of a D/A bill will ask for trust receipt facilities; it could arise if, for some reason, he wished to pay promptly and offered the bank the merchandise as security when borrowing from them to enable him to discharge the bill immediately. Three possible sets of circumstances could arise where this, though not particularly common, *might* be done—

(1) Where the drawer has offered the drawee a rebate which is higher than his bank's loan rate (see below).

(2) Where the debt is expressed in a foreign currency on which there is a heavy forward premium, making it cheaper to pay by spot exchange remittance.

(3) Where, for some reason associated with a change in trading policy, the drawee wishes to liquidate all dealings with the drawer.

Payment under Rebate. The oversea bank remitting a D/P bill, payable at some period after date or sight, to an English correspondent for collection, might instruct them in the

covering letter that the drawee should be allowed rebate either—

(*a*) at a stipulated rate per cent per annum from date of payment until due date; or

(*b*) at the London rate for operations of this type from date of payment to due date; or

(*c*) by allowing him to deduct a certain stated sum from the face amount of the bill for payment at sight, i.e. he has here only the alternatives of paying the smaller sum on presentation or the larger sum on the due date.

Should such instructions accompany the "collection inwards" the procedure by which they are complied with is a simple matter of calculating the smaller amount applicable, claiming it from the drawee against surrender of the bill and documents, and disposing of it as directed by the oversea bank.

In the case of a D/P bill drawn to give the debtor a credit period, which is received without rebating instructions, banking practice is nevertheless to allow the drawee the facility (*b*) above; he is permitted to pay the bill and get the documents at any time which suits his convenience in the course of his business, the British bank allowing him a rebate because they can use his money at the "rebate rate." They get something better than a promise to pay when they receive hard cash, and the position of the oversea bank is thus not detrimentally affected by the concession. Rebating is consequently often a useful alternative to applying for trust receipt facilities, particularly where the drawee is not known to the English bank concerned.

Nothing which has been said in this section should be thought to absolve the importer from compliance with the U.K. exchange regulations, as explained in a subsequent chapter.

1 (*c*) Documentary Credits

This section of the chapter calls for the consideration of a very different set of circumstances. Suppose a buyer in this country had received the offer of certain goods at a certain

price and on certain stipulated conditions, one of which was that he was to provide for payment by "opening a credit." Then the opening of a credit in some form is the first step towards payment, an initial step which precedes the export of the goods, or which in the alternative precedes the allocation of a particular consignment to the buyer.

The "credit" which the buyer provides varies according to the construction put on the stipulation by the parties. They must agree on this as on other essential points in the contract, and in order to be sure of agreement on the matter they are usually explicit in their definition of the credit.

Authority to Negotiate. Where a "negotiation" credit is called for the buyer instructs his bank to arrange for the purchase of the drafts drawn on him (the buyer) by a banking correspondent in the seller's centre. The importer's bank request their branch or correspondent in the exporter's centre to negotiate the seller's bill or bills of exchange on the buyer, up to a certain amount, and provided that certain conditions as to the form of the bill and accompanying documents are fulfilled.

The branch or correspondent in the seller's centre may be prepared to act on this authority to negotiate, as it emanates from a banking connection and thus there is some guarantee of standing in the matter. It may be usual in the trade concerned for this form of credit to be acted on; it is commonly used, for example, in the Australian trade. The important point for the bank to consider before they negotiate, or state their willingness to collect only, is the standing of the buyer on whom the bill of exchange is drawn; the buyer's bank may have provided them with a reference on that buyer, if they had not previously been interested in bills drawn on him. In any case the bills of exchange are on a trader, and not on a bank, and so are only discounted at the less favourable trade-bill rate.

Bills Arising. The instruments arising from negotiation credits may be at sight or at usance according to the wishes of the parties. In either alternative the negotiating bank has

the security of the documents until they pass to the importer, and they can protect themselves by sending them with D/P instructions to the bank advising them of the credit, if the bill is not payable at sight and they wish to preserve their security until payment.

Bank Credits. The contract for sale and purchase of goods may thrust on the buyer the provision of an added measure of safety for the seller. If the seller calls for a credit opened *by a bank*, the buyer who has taken the goods on those terms must go to his bank and arrange for them to open a credit under which the bills of exchange will be drawn on them (the bank) and not on him (the buyer). In this case, the credit of the bank is substituted for that of the individual buyer, and the seller gets a better discount or negotiation rate when he realizes the bills he draws on the bank than if he had drawn them on the buyer. What this margin between bank bill and trade bill rates might be in any particular transaction depends on the local discount market in the seller's centre, the amount of the bill, and other circumstances; the margin may be 2 per cent per annum or more and thus represents a considerable saving to the seller.

Bank Form " Application for Credit." In order to arrange a bank credit the buyer goes to his bank and completes an application form. This form is illustrated here (page 107) and must be filled in by the buyer in such a way as to ensure continuity with the terms of his contract for the purchase of the goods. If he is in a hurry to get the credit opened he asks for it to be advised by cable or air mail. He may have been offered the merchandise at a good price subject to his arrangement of the credit in the seller's centre by a certain time, and if the credit is not forthcoming by that time the offer lapses. With this or other conditions in mind, the buyer deletes the unnecessary words from the first line of the bank's form in order to tell them which method of communication he requires them to use. The following explanations of the successive phrases on the bank's form are given the references which appear on the illustration—

(*a*) The name of the seller is inserted, and also his address; if the credit is to go by cable, the cable address is also given in order to save on the cost of the message for which the buyer has to pay. The seller is referred to as the "beneficiary" of the credit.

(*b*) The usance at which the bills of exchange are to be drawn on the bank must be that which is called for by the sale of goods contract.

(*c*) The total amount for which the bill is to be drawn. If a series of shipments are provided for, then the total amount of all the bills is given here, and the line between (*h*) and (*j*) is referred to by the bank in order to see whether they must arrange to take *pro rata* bills or whether they must wait until all the goods have been sent off before honouring any bill at all.

(*d*), (*e*), and (*f*) refer to the documents which the seller must attach to his bill or bills. According to whether the contract is C.I.F., C. & F., F.O.B., or etc., the buyer must consider what form the documents should take as outlined in Chapter III. In any case, he must not attempt to thrust upon the seller any duty and resultant expense which the buyer is bound to take, neither should he part with any of the rights to which he is entitled. If the contract is F.O.B., for example, he cannot call for an insurance policy since it is his duty to provide the insurance. If consular invoices, weight notes, or any other documents are required, they should be stipulated after "invoice," against (*e*).

(*g*) In this space the buyer provides the bank with the necessary description of the goods, stating also the quantity or weight for which he has agreed to pay. The price per unit quantity or weight is put after the initials C.I.F. or whichever remains when those inapplicable have been deleted. Thus the negotiating bank abroad, into whose hands the credit eventually comes when the bill is negotiated, can check the seller's invoice.

(*h*) Provides two spaces for names of ports. If the contract is F.O.B. "From . . ." will be completed with the name of the port of embarkation, whilst if C.I.F. or C. & F.

(Specimen of the form which is completed and signed by an importer when he wishes his bank to open a credit.)

To THE MANAGER,
IMPORTERS BANK LTD.,
Foreign Branch, London, E.C.2. London . .. .

DEAR SIR,

I/We hereby request you to open by Mail / Air Mail / Cable the following credit—

In favour of (Name) (*a*)
(Full address) . . . (*a*)
To be available by drafts on you at (*b*)
To the total extent of £ (in words .. ..) (*c*)
If accompanied by

(i) Bills of Lading On Board / Received for Shipment, Clean, To Order and endorsed in blank. (*d*)

(ii) Invoice. (*e*)

(iii) Policy / Certificate of Insurance covering Marine / Marine and War risks for Invoice value plus .. per cent and other risks as follows ..... (*f*)

(iv) Other Documents . . . .

Evidencing shipment of

Merchandise { Description / Quantity / Weight } Price C.I.F. / C. & F. / F.O.B. / F.O.R. .... . (*g*)

From .. *To* .. .. (*h*)

In part consignments / one consignment, when *pro rata* drawings are / are not to be made.

This credit to be Revocable / confirmed and Irrevocable until the . . .. (*j*)

Additional instructions (if any) . . .

Neither you nor your Agent shall be responsible for the quantity, quality, value or description of any goods, and your right to repayment and reimbursement shall not be prejudiced or affected by any invalidity, insufficiency, irregularity or mis-description in any document.

The goods and the proceeds of all sales thereof and of all claims against shippers or insurers arising therefrom and all my/our rights as unpaid sellers shall be a security to you for all obligations and liabilities incurred by you or your Agents under or in connection with this credit and either by way of acceptance or for disbursements for cost freight insurance and any other charges payable in respect of the goods or otherwise, which I/we hereby authorize you to pay for my/our account, and for all other my/our liabilities to you present and future.

You are authorized to debit my/our account with all sums paid under or in connection with this credit or in respect of the goods, also with your commission and charges, and I/we undertake to place you in funds to meet such disbursements, and to provide you with funds to meet your acceptances three clear days before the due date thereof or earlier if required, and in the event of any default I/we give you full discretionary power of sale over the goods either before or after arrival.

I/We agree that you are not to be called upon to incur any liability under this credit beyond the due acceptance and payment of drafts drawn in accordance with its terms, and that I/we will indemnify and hold you harmless against all liability, costs, charges and expenses which you may incur under or in connection with this credit and that my/our liabilities to you are to continue in force and to be applicable to all transactions entered into hereunder notwithstanding any change in the composition of firm or firms, parties hereto or in the beneficiary/ies under this credit.

If this credit is opened by cable it is understood that the cablegram is despatched at my/our risk and cost and that you are not to be held liable for any mistakes or omissions that may arise in the transmission thereof or for delay on the part of the Cable or Telegraph Companies concerned.

Subject to the matters above-mentioned and so far as is consistent therewith, the terms of the general letter of hypothecation (if any) signed by me/us shall apply to the said items and the property and goods represented thereby.

Yours faithfully,

(Signature).. ... . | 6d. Stamp | .... (*k*)

(Specimen Letter of Credit (Irrevocable).)

IMPORTERS BANK LTD.

Foreign Branch, London, E.C.2

Irrevocable Credit No. . Dated London .

(Please quote this reference on all correspondence relating hereto.) Expiring in London . . (j)

Amount £ . ... . . (c)

To . (a)

At the request of (k)

We hereby authorize you to draw on us at (b)

to the extent of (c)

The following documents (complete set unless otherwise stated) must accompany your draft(s)—

(i) Bills of Lading $\frac{\text{On Board}}{\text{Received for Shipment}}$ Clean, To Order, and endorsed in blank (d)

(ii) Invoice (e)

(iii) $\frac{\text{Policy}}{\text{Certificate}}$ of Insurance covering $\frac{\text{Marine}}{\text{Marine and War}}$ risks for Invoice value plus . per cent. (f)

Other Insurance risks to be covered . .

(iv) Other Documents

Evidencing shipment of

Merchandise { Description / Quantity / Weight . } Price C.I.F. / C. & F. / F.O.B. / F.O.R. (g)

From . *To* .... (h)

In $\frac{\text{part consignments}}{\text{one consignment}}$, when *pro rata* drawings $\frac{\text{may}}{\text{may not}}$ be made.

Drafts drawn hereunder must clearly specify the number of this credit, and must be presented on or before . . . . . . (j)

We hereby undertake to accept and/or pay all drafts regularly drawn upon us under this credit.

Yours faithfully,
For and on behalf of Importers Bank Ltd.,

(Signed) .... } Authorized Signatures.
... .

(Specimen Letter of Credit (Revocable).)

IMPORTERS BANK LTD.

Foreign Branch, London, E.C.2

Revocable Credit No. .. .. .. Dated London .

(Please quote this reference on all correspondence relating hereto.) Amount £ . . (c)

To (a)

At the request of ... .. (k)

we hereby advise having opened our REVOCABLE credit in your favour: drafts to be drawn on us at . . ... (b)

to the extent of (c)

The following documents (complete set unless otherwise stated) must accompany your draft(s)—

(i) Bills of Lading $\frac{\text{On Board}}{\text{Received for Shipment}}$ Clean, To Order, and endorsed in blank (d)

(ii) Invoice (e)

(iii) $\frac{\text{Policy}}{\text{Certificate}}$ of Insurance covering $\frac{\text{Marine}}{\text{Marine and War}}$ risks for Invoice value plus per cent. (f)

Other Insurance risks to be covered . . .

(iv) Other Documents . .

Evidencing Shipment of

Merchandise $\left\{\begin{array}{l}\text{Description}\\ \text{Quantity}\\ \text{Weight}\end{array}\right\}$ Price C.I.F. / C. & F. / F.O.B. / F.O.R. (g)

From . . . . *To* (h)

In $\frac{\text{part consignments}}{\text{one consignment}}$ when *pro rata* drawings $\frac{\text{may}}{\text{may not}}$ be made.

Drafts drawn hereunder must clearly specify the number of this credit.

NOTHING IN THIS LETTER IS TO BE TAKEN AS CONFIRMATION OF THE CREDIT, WHICH IS REVOCABLE AND THEREFORE SUBJECT TO CANCELLATION AT ANY TIME WITHOUT NOTICE.

Yours faithfully,
For and on behalf of Importers Bank Ltd.,

(Signed) .. ..

terms are in the contract, the name of the destination port must be filled in after "To . . ." In either case the further terms of the contract and custom in the trade must be borne in mind. For example, under F.O.B. contract the buyer may have asked the seller to put the goods on the first boat sailing for London, in which case "London" must be inserted after "To . . .," as well as the name of the port of export after "From . . ." Or there may be a trade custom for goods to be sent off "Option London, Liverpool, or Glasgow, to be declared at first port reached," in which case the buyer must say so, so that the bank get a B/L with the appropriate option clause.

(*j*) Brings us to an important point. The bank who are asked to issue a "Revocable" credit, issue one which they have the right to go back upon at any time without notice to the beneficiary. They might give the beneficiary notice as a matter of politeness, but they are not legally bound to do so. It might well be asked what benefit is derived by the parties when such a credit is opened, if the trade seller runs the risk of getting his goods together and on to a ship, only to find that the bank credit he relied upon has been withdrawn when he presents his draft and documents.

Use of Revocable Credit. The benefit to the trade seller of having a revocable bank credit is that the bill of exchange is drawn on a bank, not on a trader, and so it is discounted, after the bank have accepted it, at the finest rate. The saving in bankers' commission (see below) makes it worth while from the buyer's point of view, as well as providing a facility which could be withdrawn in the event of *mala fides* (bad faith) by the seller. Revocable credits were extensively used in trade in the inter-war years, often being opened by continental buyers of our re-exports of jute, for example, and they were very seldom revoked. If the seller has any degree of trust in the bona fides of the buyer he can, in modern mercantile practice, ship against a revocable credit with a considerable measure of confidence.

Revocation Clause. Occasionally, a seller receives advice

of a revocable credit and is not satisfied thereby. He may think he is entitled to have an irrevocable credit by the terms of his contract; this arises particularly where the seller relied on getting the irrevocable form which is usual in his trade in his own country, which is not necessarily the usual custom in the same trade in the buyer's country. Any such unfortunate misunderstanding can be to some extent rectified by the buyer's bank, if they care to do so, at the request of their customer. The adjustment consists of the addition to the advice of a clause in which the buyer's bank undertake to honour any drafts drawn prior to receipt by the beneficiary of advice of revocation. When this clause is added, the buyer's bank undertake to advise the beneficiary of revocation, should that take place, and for the cancellation to be effective it must be in the seller's hand before he negotiates. Any drafts negotiated prior to receipt of the advice must be honoured by the bank opening the credit; the seller, and banks who negotiate for him, gain this additional security.

Bills Without Recourse. The seller's demand to be provided with either an irrevocable or "claused" revocable credit may take the form of a refusal to ship unless he can draw his bills "without recourse" and get them negotiated. That means that the negotiating bank will have no right to come back on him in the event of dishonour of the bill by the bank opening the credit. Thus they will only negotiate the exporter's bills if he produces an irrevocable letter of credit, or if a revocable credit had been advised by them, with the revocation notice clause, at the request of the buyer's bank. Under these circumstances the demand by the seller outlined in the first sentence of this paragraph is virtually a demand to the buyer for the greater degree of certainty which is provided by a banker's confirmation to the credit, or provision for notice of withdrawal in the revocable instrument.

Irrevocable Credit. The alternative to a revocable credit is one which is irrevocable. The bank who agree to issue such a credit issue to the beneficiary a contract which they cannot revoke. At their customer's request they make a credit

contract with the seller, and even if their customer asks them to do so, they cannot go back on their undertaking. Whereas the revocable credit is not confirmed to the beneficiary (the seller) and he is not always advised by the bank of the issue of the credit, the irrevocable credit is confirmed to the beneficiary, usually by sending him a "Letter of Credit." Illustrations of a confirmed irrevocable credit, and of the advice which might be sent to the beneficiary of a revocable one, follow the specimen application form which the customer signs (pages 108 and 109); these credit letters are explained later in the chapter.

So far, it has been necessary for credits to be registered with the Bank of England (exchange control) when used to finance exports to non-sterling countries. This formality, should it continue to be required, is a matter which the exporter can leave to the banking fraternity, merely assuring himself that the advice letter he receives mentions any registration number applicable to the operation.

Bankers' Tests. It must not be supposed that the bank act on their customer's application for the issue of a credit without some consideration of the matter. They are asked to pledge their own credit, and this they are only prepared to do after the usual bankers' tests have been applied; they consider the customer's standing and what security they have for the eventual provision by him of the funds which will be necessary to meet the bills of exchange drawn if the credit is issued. Should they not consider it sound practice to act without the prior lodgment of security, or maybe additional security, they tell the customer what they require of him. They are, of course, provided with recourse to the customer, and a lien on the goods, by the undertaking at the foot of the credit application form which the customer signs, but they usually require some margin in case anything should go wrong. (Example, a collapse in the price of the particular goods in which their customer is trading.)

Commission Charges. The bank charge a commission for their service in opening a credit. If they merely advise an

"authority to negotiate," this is a nominal sum, but for revocable credits they might charge $\frac{1}{8}$ per cent (2s. 6d. per £100 of the amount of the credit) and for irrevocable ones $\frac{1}{4}$ per cent (5s. per £100) with a minimum for small amounts. The charge is usually made for a credit having three months to run, with an additional charge for renewals thereafter. The figures inserted are mere illustrations.

Honouring Drawings under Credit. If the space marked (*b*) in the application form is completed by the addition of the word "sight" the bills are so drawn; being payable on presentation, they are charged to the account of the customer when that presentation takes place, and no further charge is made. Should the credit form ask for the bills to be drawn at 90 d/s or other usance, they are presented by the oversea bank which negotiated the drafts drawn by the beneficiary. The bank which originally opened the credit is named in these bills as drawee, and they must accept them, if the documents are in order, in order to fulfil their contract. They charge a further commission, which varies with the usance and the circumstances of each case. The acceptance commission might be, say, $\frac{3}{8}$ per cent for a 90 d/s bill.

Opening the Credit. The opening of a credit by the bank to which the trade buyer addresses his form is effected by an allocation of a page in their credit-book. They send a confirmation of the credit, if it is irrevocable, to the beneficiary, as in the specimen following the customer's application (page 108), or if they are asked to advise the revocable credit they send the form of letter set out on page 109. In order that readers may follow out the details of the customers instructions, these have been given parallel reference-letters in the three illustrations.

Expiry Date. An irrevocable credit is always given an expiry date in reference (*j*). If the date mentioned arrives without credit having been used, it expires at the close of business on that day and the beneficiary cannot thereafter avail himself of it unless he gets the buyer and the buyer's bank to agree to an extension. The revocable credit may or may not have an

expiry date; it is not really necessary, but can be inserted if thought fit, in order to show the buyer's intention.

Where Available. The place where the credit is opened is an important feature, for an expiry in London on 30th June is a vastly different thing to expiry in, say, Sydney, N.S.W., on that date. This point must be borne in mind by the buyer and his bank in section (*j*) and elsewhere in the form. The credits illustrated are those which the buyer's bank open themselves in London, and unless it is made clear to the contrary the buyer might think that when the expiry date arrived he, in London, was absolved from liability for bills of exchange not yet presented. In order to avoid ambiguity section (*j*) should read, when completed, for an irrevocable credit which is to expire on the 30th June, 19 . . . , *either*—

(*a*) ". . . confirmed and irrevocable until the 30th June, 19 . ., in London" *or*

(*b*) ". . . confirmed and irrevocable until the 30th June, 19 . ., this being the last day for negotiation of bills of exchange in Sydney."

On occasion, it is found necessary for *two* dates to be mentioned on the credit. Where an exporter has undertaken to deliver before a certain date, it would create difficulties for him if the expiry date of the credit coincided with this delivery date, since it would leave no time for him to get the bills of lading prepared, lodged with, and returned by, the shipowner; this takes time. When, therefore, the importer wishes to secure compliance by the exporter with an obligation to ship before a certain date, the credit gives—

(*a*) the last date which can appear on the bill(s) of lading to meet the specified time; and

(*b*) an expiry date for the credit, later by (say) one month.

It is most important that, when credits are designed to take account of such contract terms, both dates should be clearly stated and their relevance defined.

Advice to Beneficiary. The bank confirming an irrevocable credit or advising a revocable one do not necessarily send their

own letter direct to the beneficiary. They obviously cannot do so if the credit is to go out by cable as they have no means of authenticating any cable message sent to the beneficiary direct. What they do here, and what they do by mail in some instances, is to instruct a foreign correspondent in the seller's centre to act for them. The cable or letter they send reads "Please advise export sellers we have issued our irrevocable credit . . ." or else "Please issue *your* confirmed credit to export sellers . . ." giving the necessary particulars which are provided by the buyer in his application form: if that form asked for a revocable credit, the above message reads "revocable" in place of the contrary.

The seller may thus receive an irrevocable credit (where his arrangement with the buyer calls for a "Confirmed Bank Credit") in one of three different ways. He receives *either*—

(*a*) a letter of credit from the buyer's bank; *or*

(*b*) an advice from a bank (not necessarily his own bank) in his own centre, to the effect that the buyer's bank have issued their credit. This must necessarily occur where the buyer asks his bank to issue their own credit, but to cable advice; *or*

(*c*) a letter of credit from a local bank which they have issued on the instructions of the buyer's bank.

Beneficiary's Procedure. Subsequent procedure depends largely on which of these three forms reaches the seller.

(1) When he receives a letter of credit direct from the buyer's bank he ships off his goods in accordance with the terms, gets together his documents and pins them to the bill of exchange which he draws on the buyer's bank with any related exchange control document necessary in the trade. He takes this documentary bill to his own bank with the letter of credit and his bank negotiate the bill, as a bank bill, of course, at the finest rate. If he is well known in his own centre he can ensure getting a keen rate by taking the transaction to several competing banks and accepting the best offer he can secure. This paragraph gives the usual procedure where

the price is quoted in the buyer's currency (sterling in the case of United Kingdom imports), since the invoice, the insurance policy, the bill of exchange, and the letter of credit are all expressed in that same currency unless one of the parties has made a bad mistake.

(2) A possible alternative is provided when all the seller receives is the local bank's advice. He again draws his bill in the buyer's currency on the buyer's bank. The local bank may have put a restrictive clause in the letter they sent with the intention that they alone should get the resultant business of negotiation. In that case the seller should take his bills to them and accept their rate, but in centres where competition between banks is very keen (as it is in so many countries for negotiation business) he may nevertheless manage to arrange the business elsewhere on the strength of the advice letter.

(3) The local bank's own letter of credit is issued when the price originally arranged was in the currency of that centre, i.e. in that of the seller and not in that of the buyer. Had the buyer in his application form section (*c*), inserted an amount in the seller's currency, his bank would not usually have issued their own credit, but would have arranged for a letter of credit expressed in the seller's currency to be issued by their correspondent in the seller's centre. The bills of exchange must then be drawn in the seller's currency on the local bank issuing the credit, and the banking operation then involved is a discount and not a negotiation.

In each of these three cases, the seller must produce the letter of credit or advice with his documentary bill or bills. If the credit calls for one shipment only and he has made that one shipment, the bank which negotiates or discounts the bill take the credit letter or advice as well. If the seller holds a letter of credit which permits of a series of consignments being sent to the buyer, then for each part shipment he is probably authorized to draw *pro rata*. If that is so the negotiating or discounting bank endorses on the back of the letter of credit the amount of each bill when they negotiate it, so that the credit thereafter shows clearly that it is only available for the undrawn

balance. When the credit is exhausted by the only or final bill, it is attached to that bill by the negotiating bank.

Oversea Bank's Procedure. An oversea bank to whom the exporter hands his documentary bill for negotiation, with the relative letter or advice of credit, examines the documents to see they are in order in accordance with the credit, and buys the bill at a fine rate (a "close" rate) of exchange. The bill of exchange is drawn on a British bank, than which no finer instrument can be offered, unless it be an undertaking by our Government. In one instance the circumstances are such as to put them on their guard, and that is where the credit is a revocable one without the "notice clause." There they have no undertaking that the bill will be honoured, in contrast to the irrevocable or claused revocable credits where they have the prior undertaking of the issuing bank on the point.

Having purchased the bill they send it to London by first mail for presentation. If they previously acted as advising agent in respect of the credit, they send it to the drawee bank direct, but if they have not been concerned in the opening of the credit and the drawee bank is not their correspondent, then they send it through their own agent or branch in London. The bill is duly presented on arrival of mail; if drawn at sight and providing both the bill and the relative documents are in order in accordance with the credit, the drawee bank pays the face amount to the presenter. Bills which are drawn at usance are accepted and returned to the presenter and he discounts them in the London bill-market, or holds them for collection, according to the instructions received by him from the foreign bank.

Opening Bank's Procedure. When the bill is honoured by payment or acceptance the drawee bank (i.e. the bank originally opening the credit) take possession of the documents. They have paid or given a binding undertaking to pay, but the goods have not yet arrived and the customer either requires possession of the documents in order to re-sell or does not wish to be bothered until the actual goods arrive. In the former case the trust receipt can be used in order to give the customer access to the documents and to the goods when

they arrive, without giving him the bank's security, and in the latter case the bank are usually prepared to retain the documents for a reasonable time.

Payment of a sight bill is provided for by charging the account of the customer for whom the credit was opened. If the customer requires accommodation he can be given an advance against the security of the documents providing he has signed a letter of hypothecation (see below).

The acceptance of a bill of exchange by the bank means that they will have to pay on a certain future date, and on or before that date they look to the customer to provide the funds to meet the maturing obligation. Meanwhile, they take a trust receipt if he desires to handle the documents, or retain them as security under letter of hypothecation.

Revolving Credits. The expressions "running" or "revolving" have not, so far, been referred to. These adjectives are used somewhat loosely in modern commercial practice. One example of a "revolving credit" is a credit arranged in the seller's centre, through one particular correspondent of the buyer's bank, by which bills up to a certain limit of amount are permitted to be outstanding at any one time. This variety proves useful if the trade "seller" is an agent acting on behalf of the buyer in order to secure a stream of supplies, or where the buyer has agreed with the seller to take an agreed quantity at intervals over a period of, say, three months, six months, or a year. It saves the buyer and his bank the trouble of constantly opening new credits. Should the credit stipulate for example, bills drawn at 60 d/s up to a total outstanding of £10,000, the seller can ship and draw for £1000 each week; when ten such bills have been drawn the negotiating bank consider the credit as temporarily exhausted until they receive advice that the first bill drawn has been paid. When that advice reaches them a further bill can be negotiated, and so on. It must be remembered that the first bill will not be paid until 60 days, *plus mail period from seller's country to buyer's country*, have elapsed since the date of its drawing and negotiation.

There are other varieties of "revolving credit," which cannot be summarized in brief terms without diverting attention from the main theme in order to generalize about somewhat specialized instruments. In consequence, it is probably best to proffer the advice that each revolving credit should be accorded individual study, in order to ensure that it is so designed as to give full effect to the wishes and intentions of the parties.

Clean Credits. British and foreign banks issue "clean" credits, i.e. credits in which no documents of title are called for. The customer applying for a clean credit usually pays the amount immediately, and takes the letter of credit with him: the usual purpose is to facilitate travel and not trade, but this form is occasionally used for trade purposes. One example of such use is where a local oversea agent of a fruit importer here has a clean letter of credit sent to him in order that he can buy to the best advantage of his principal, the arrangement being that he draws clean bills on the buyer's bank or arranges for clean bills to be drawn on that bank by the actual sellers with whom he puts his principal in touch. He then sends the documents to the buyer direct. The agent concerned may be, of course, "Del Credere," that is, a firm established in the oversea centre which undertakes the credit risk (see Chapter VII) in respect of the principal, or he may be an employee of the buyer sent out specially.

Type Depends on Prior Contract. The type or variety of credit which any particular buyer provides or asks his bank to provide depends on his contract with the seller and custom in the trade. As a general rule, he will establish that type which costs him the least possible amount and thrusts the least possible risk on him, consonant with the terms of his contract to purchase the goods. He must beware of this risk—that if he does something less than he is bound to do, the seller can repudiate the whole contract.

The Letter of Hypothecation. It will be observed that the bank's form which an importer signs in order to apply for the issue of a credit in favour of his exporter, refers in the

last sentence to the "General Letter of Hypothecation." Where there is a series of transactions involving documentary bills, whether bills for collection, discount or negotiation representing exports (Chapter V) or arising from credits opened here to cover imports, then the customer concerned signs one omnibus or "general" form to give the bank security in all the bills to which he is a party.

The "L/H" conveys to the bank the full ownership on the goods. It also gives the bank all the rights which the customer had in respect of—

(*a*) Sales of the merchandise.
(*b*) Claims against shipowners.
(*c*) Claims against insurers.
(*d*) Stoppage *in transitu.*

These rights are transferred to the bank irrespective of the location of the goods. The bank is further authorized, should it so desire, to take over the goods by arranging storage and insurance, and to pay all charges to the debit of the customer. In the case of the customer's default the bank has the right to sell all or any part of the goods in order to pay its own advances and expenses, and it has the right to sue the customer for any balance outstanding when that has been done. In short, to use a phrase which has been employed elsewhere in this book, "The bank perfects its security in the goods" as far as is possible in the circumstances.

(2) Choice of Media

The first section of this chapter is concerned with the three main ways by which an importer may finance his trade. This (second) section of the chapter represents an attempt to put into simple terms the reasons impelling an importer to choose any one way instead of any of the others already mentioned, or certain ways which are less frequently employed and on which this section can conveniently pass brief comment. The topic is one which can easily become a complicated one, since it has also to be established that the various means are not always mutually exclusive.

The importer's approach to the financing of his trade is conditioned by his psychological reactions to the circumstances under which he is operating, either as those circumstances actually exist, or as he imagines them to be. Thus there are three essential determinants, as follow—

(1) Tradition: what is "usual in the trade" by reason of universal acceptance, or because the importer has been told of a supposed tradition which he accepts as such without further inquiry.

(2) Relative bargaining-strength of the importer in relationship with his exporter, or as he fancies it to be. When supplies are short, the importer is only too glad to get a promise of delivery at ruling prices, thus not concerning himself over-much about the exporter's conditions regarding financing. On the other hand, in a "buyer's market" the importer is, other things being equal, in a relatively stronger position and so able to dictate the terms on which he will agree to finance the trade. Between these two extremes lie many intermediate stages in which the relative strength of the parties is far less clear; some exporters—most of the London merchant shippers, for example—are keenly alive to all the shifts and changes, guiding themselves accordingly. Others are content to let a supposed tradition be carried on to their detriment long after the circumstances have changed. As a rule for general guidance it must be presumed that one's competitor and the oversea trader are quite as keenly alive as oneself to current conditions, on the principal of "never under-rate the opposition."

(3) External factors are also an influence on the forms of trade financing: that is meant to convey, of course, factors external to the particular individual trader whose reactions are under consideration. Included in these general factors are the ruling conditions in the special trade, and in the trade of the market concerned; basic conditions (e.g. political) in the country where the trader operates; the relative strength of the state in political, trade, and exchange negotiations with other countries of the world, and so on.

It would be absurd to suggest that an importer consciously

weighs up all the various factors and comes to a reasoned conclusion in respect of each. It remains true that, whether he admits it or not, he is affected in greater or less degree by all of them. Thus the importer in a country which tends to run short of exchange resources will for that reason acquiesce the more readily to his exporter's demand for the trade to be financed by confirmed irrevocable bank credit, where otherwise he might only offer cash-against-documents in his own centre, and on his own obligation without bank backing. This example is a fairly simple one, capable of illustration on many occasions since the war of 1939–45. As time goes on, such simplicity will no doubt give rise to a more complicated blending of the various factors, thus thrusting on importers and exporters a greater responsibility for careful choice of means of finance appropriate to maximum trade turnover whilst reducing to the minimum which can be achieved, all forms of credit risks.

It follows from what has been said that there are periodical changes in the forms of trade finance predominantly used. During any period of major reconstruction (for example, following a world war) a larger proportion of United Kingdom export trade is financed by bank credits. Conversely, the "economics of plenty" postulates schemes of trade expansion, both by large producers and a multitude of smaller-scale producers, which can only be carried forward by less onerous terms for importers, many of whom then ask for open-account terms or a credit period with bill-of-exchange finance.

It might almost be said that there are "fashionable patterns to suit the times" in trade finance, though this is so sweeping a generalization as to verge on the misleading. However much the world might become a "buyer's market," there are always some buyers who have to open bank credits or pay cash with order: on the other hand, in a seller's market there are always suppliers lacking the individual bargaining-power to command bank credits from their informed buyers overseas. Overall, there are always the folk who stand by their traditional means; they have tried it for years, or perhaps generations, and refuse to break away to seize a temporary advantage.

In spite of what might perhaps be called "exceptions," however, there is a sort of main general pattern discernible in trade finance, given a reasonable period to show up its essential features, and undoubtedly the bank credit was the outstanding feature of post-war exporting from the United Kingdom. The main stabilizer is the long-term contract between exporter and importer, provided always that it incorporates a clause regarding form of finance; U.K. and American manufacturers who appoint sole distributors in oversea territories nearly always include a stipulation that the trade is to be paid for by approved bank credits or, in the alternative, that sales are to be on F.O.B. terms and the documents are to be taken up by an approved confirming "indent" house; in the latter case there may be a contract between the distributor and the indent house of which the financing clause will be a prominent feature.

Apart from the steadier flows of trade (as, for example, between manufacturer and sole distributor) there are many others necessitating appropriate financial arrangements. Additionally, too, sole-distributorship and sole-agency contracts only run to expiry dates, on which changes may be made. At any moment of change, which may be conveniently exemplified by a transaction between a particular exporter and a particular importer, it may be supposed that the exporter is considering what terms he can offer. The following are possibilities—

(1) To demand "cash with order" as a condition of acceptance of the order. The extent to which this is attractive depends, in some part, on whether money is "cheap" or "dear": thus money was relatively cheap in most countries immediately after the war—it did not place an intolerable burden on the importer to pay cash with order, but the value to the exporter of the bank balance was negligible as an interest-earning asset. At the time, some foreign importers offered U.K. exporters cash as an inducement to secure more prompt delivery—which was worth a lot at the time of scarcity—the idea being that the exporter who had accepted payment then felt "on his honour" to keep to his delivery promises.

Some sellers make a rule of not booking orders from new clients unless and until cash is paid, but this is not so important in export as it is in home trade. Where the exporter is looking to the initiation of trade with a new contact to provide repeat orders, he is not likely to place undue emphasis on "cash with order," but will propose some alternative form of finance after making a proper assessment of the credit hazards, as explained in the next chapter.

(2) An alternative to 100 per cent cash with order is a part payment at the time, and then a subsequent payment or payments to make up the balance: the payment(s) to balance may or may not be effected by means of bank credits. The part-payment technique is not necessarily, or only, to be associated with sellers'-market conditions; there may be peculiarities about the particular trade, or the particular type of trade, which make it more appropriate. Thus if a firm of engineers had undertaken to supply and install specialized equipment for a foreign project, they are well advised if they take this particular approach to its logical conclusion, when it becomes "progress payments." In other words, they are paid so much down to start the work, so much (possibly against documents, perhaps by bank credit) against the supplies of gear and equipment purchased and shipped abroad for the scheme, and so much on the achievement of each certified stage towards final completion of the whole job. This is a very special example, deliberately chosen as illustrating a principle which has many simpler applications: it also introduces a possible complication, of which there are many parallels, where "certification" in some form is a part of the whole operation. In shipbuilding, this is a matter for careful study by the parties before the contract is signed; in more straightforward exports of the many possible combinations of materials with applications of machines and human skill, certification still has a part to play in ensuring to the importer that what he has bought is what he wants for his purpose. This inevitably affects the form of finance suited to the whole operation, though so specialized a topic that it has to be left

for separate study by those whose interests lie in this particular direction.

(3) In commodity-trade transactions of fairly straightforward nature, there is not the same essential need for securing part payment with order; however, the seller may find himself supplying merchandise subject to price fluctuation. If the market price falls between the date of his sale of goods and the date when the buyer should pay, then default by the buyer means he loses on diverting the goods to another client. Thus he is the better pleased if he is offered part cash with order, failing always a confirmed irrevocable bank credit with an expiry date so far ahead that there is no risk of delivery and payment not being effected before the last date for negotiation.

(4) Some importers offer "part cash with order, balance by bank credit to be advised" in order to give the exporter assurance in conditions where import licensing is "tricky." This certainly reduces the risk, and again gives an example of a transaction where the settlement invoice has to show a part payment on account, reducing the final amount payable by the importer—in this instance, through the bank opening the credit.

(5) It is most unusual for part payment to be made in advance of final settlement where the documents are to be taken up by an indent house, unless (possibly more by accident than design) the indent house account with the supplier happened to be in credit when the deal was initiated. As a general rule the conduct of trade between manufacturers and the shippers who confirm indents from oversea distributors, is such that the payments from the indent houses only catch up on their debtor balances at periodical settlement dates.

(6) In the main, with the exceptions noted above, the banker's credit is usually for the whole amount of a given export transaction or (as in *pro rata* credits or in revolving credits) for the total of a series of export transactions.

(7) Bill finance is a matter for arrangements suited to the parties and the times; thus sight-payment bills may be drawn for a period, to give place to 30 days', 60 days', or 90 days'

bills when the parties have got to know each other and expanding trade is looked for, or established trade has to be maintained against growing competition. It is not necessary to give credit for 100 per cent of the importer's total purchases, of course. Thus half the invoice amount might be drawn for at sight, balance on credit terms, or 40 per cent sight, 30 per cent short credit, and 30 per cent longer credit. One could juggle indefinitely with illustrations of the possibilities without striking a particular one which had never been put into practical effect.

In the above paragraphs the intention has been to use sensible examples from practice, not to waste time in exhausting all that might be done, or in giving an ambitious list of feasible alternatives. If the main principles are clearly seen, the details can be acquired in practice or supplied by the imagination.

It must also be remembered that a manufacturer who deals "direct" (i.e. not through merchants or indent houses) on sight-payment bill terms, is not necessarily bound to grant credit out of his own floating capital. When faced with demands for credit he can refer his buyers to the industrial bankers who specialize in taking up suppliers' documents against cash in London and according credit up to 90 days' sight on their own responsibility.

CHAPTER VII

THE CREDIT RISK

THE buyer of goods runs the risk that the seller may fail at some time after the contract is made, but prior to delivery of the goods in the terms of that contract. The same risk is incurred in regard to the seller, but in a slightly less degree, if some climax in the seller's affairs should cause the parties from whom he himself habitually buys to restrict the extent to which they allow him trade credit. Under either of these circumstances the buyer finds himself short of the supplies of goods on which he is relying in order to continue in business: if those goods are raw materials for use in his own factory he must either shut down and throw his employees out of work, or else discover at short notice some alternative suppliers. Should the buyer be essentially an importer who buys in bulk abroad in order to re-sell to home wholesalers and distributors, as so many do, then he must "buy in" at best in order to deliver the goods he has undertaken to re-sell, or he will run the risk of being sued for breach of his contracts.

Buying In

"Buying in" consists of going into the open market and making the best bargain one can in order to buy supplies to the extent of the non-delivery. The buyer does not lose the total sum, he stands to lose the extra which it costs him to buy in, over the original price arranged with the defaulter; that margin is likely to be a large one if the defaulting foreign seller was the principal supplier to the buyer's market, as his failure will usually mean a shortage of the commodity throughout that market and the price will be "bid" up to dearer levels. (Buying in is effected in some markets at an official price.) The buyer is an unsecured creditor for the amount he loses, unless he has managed to get some security lodged with him

which belongs to the seller (example: he may owe the seller some amount on a book debt, under circumstances which give him the right to set it off against the loss).

Seller's Risk

In trade which passes in the opposite direction, the home seller is concerned with the financial standing of the foreign buyer. Arrangements by which his measure of trust in the buyer are carried into practical expression are given in detail in the earlier chapters; he may have arranged for his bills to be collected D/P, or he may have insisted on an irrevocable credit to be opened by the buyer's bank before he sent off the goods. Where D/P bills cannot be met by a defaulting buyer, and in many alternative examples which could be given, the seller has to find another market for his wares, in which case he probably sells at a loss.

One still dare not mention "Smyrna" to our cotton piece-goods exporters in Manchester; owing to the collapse of the market in the Near East many years ago, large consignments of these goods were sent off in order to effect delivery under C.I.F. terms. By the time the bills were presented the drawees had failed, and the goods were well on their way. These cotton goods were of a type adapted for sale in that particular market, and not readily saleable in any other centre. The resultant loss ran into very large figures; it could have been avoided if the sellers had insisted on irrevocable credits, as their bills would then have been drawn on reputable banks, but such was not the custom in the trade.

Definition

This, then, is the credit risk. It may be briefly defined as "The risk that the buyer may not be in a position to pay when payment is due," and "The risk that the seller's credit position may preclude his performance of the contract."

Minimizing the Risk

Traders have several avenues open to them by which this

credit risk can be minimized. In the first place, before they enter into any transaction with the counter-party, they can get a "banker's opinion": that is, they can ask their own bank at home whether the counter-party is considered "good for" a certain sum, or if he is "honest and reliable" or some similar inquiry embodying both those expressions. If the name of the counter-party's bank in the foreign centre is given, it assists the home bank in their search for information.

It cannot be too strongly emphasized that inquirers must make their purpose plain to the bank when asking for status reports. Indeed, one might go so far as to say that they should first make up their own minds as to the exact nature and extent of the trade contemplated. For example, a manufacturer may have in view the appointment of a sole distributor in an oversea market and the parties agree that the turnover allotted to that market is to be £10,000, but it is hardly likely that the whole turnover will be shipped in one lot. The distributor wants regular monthly shipments, and it is unlikely that he will require to carry more than £1000 of indebtedness at any point of time within the year. If that is so, then the manufacturer must mention to the bank that the indebtedness contemplated is either—

(*a*) £1000 at any one time; *or*

(*b*) £10,000 in a series over one year.

In one extreme case a merchant inquired to know if a certain party was "good for £20,000" when the inquiree was merely being appointed as commission agent (not *del credere*). The bank's reply did not elicit the information required by the merchant, for obvious reasons.

Bankers' Opinions

The bank who are asked to obtain a report communicate with their correspondent in the foreign centre and discreet inquiries about the proposed counter-party are made in banking circles there. Any information obtained is communicated to the home bank, and by them to their customer, in a very guarded manner. No liability is undertaken by any bank,

home or foreign, for this gratuitous service, but the answers are given honestly and in good faith, and can be of very great assistance to the inquirer.

The following are abridged examples of the type of information which is collected—

Favourable. (1) "Old-established, considered sound; believed good for your figures."

(2) "This firm have banked with us for many years; one of the leaders in their trade."

(3) "Acts as agent for important foreign interests. Good reputation, can be recommended for business of this class."

(4) "A concern of the highest standing. We enclose copy of their latest balance sheet."

(5) "Not known to us personally, but two other banks here report favourably."

Doubtful. (6) "Maintains a small account with us. Your figures (£400) rather large."

(7) "Well regarded locally, but said to employ small capital in proportion to volume of trade."

(8) "Cannot get much definite information. He is said to be running a family business, and appears to be prosperous."

(9) "In a small way of business. Recommend secured basis."

Unfavourable. (10) "Said to be involved in a charge of smuggling."

(11) "Reported locally that he is over-trading; does not meet engagements promptly."

(12) "No dividend paid by this concern for many years. Debenture-holders said to be contemplating taking possession of the assets."

In several of these examples banks hint, or definitely state an opinion, that the party inquired about is over-trading. This is a matter on which a bank can often come to a very definite conclusion; the knowledge that the party is at present carrying more than the risks a prudent bank think he should take in the course of his trade, should be sufficient to preclude other parties abroad from entering into trade-relationships with him.

There are other aspects of the matter of bank inquiries which are examined in greater detail in the banking textbooks. The legal position of a bank making an inquiry differs from that of a paid inquiry agent, but this point is a side avenue which it is not proposed to explore in the present volume.

Commercial Inquiry Agents

Traders and banks employ agents other than foreign banking correspondents for making inquiries abroad. The commercial inquiry agents provide a valuable service, largely complementary to that rendered by the banks. Some of these firms issue to their subscribers credit lists, in which commercial firms at home are graded according to their standing. They also compile similar lists for a few foreign countries and they maintain very extensive files of reports on firms in all the important countries of the world, which are available to their subscribers. They have extended their service to include the collection of bad and doubtful debts at home and abroad, and they are prepared to advise unpaid creditors whether it is better for them to take legal proceedings, or to bring pressure to bear without having recourse to the law.

Trade References

Importers often give "trade references," either spontaneously or in response to specific request. These are checked up by writing to the parties named. Some exporters are very careful how they make such requests for information, since they do not want their competitors to form conclusions from the nature of the questions asked. Conversely, there is a tendency for the credit managers in some industries to "get together" and exchange information in order to prevent the unwary from being misled, and to prevent the dishonest type of importer from securing further supplies.

Other Information

Both banks and commercial inquiry agents give opinions on markets as well as on traders, and the Export Promotion

Department of the Board of Trade provide a service which can give very great help in information, statistics, commercial news, and economic surveys. Any further comment would be a mere repetition of the account of their services which is well presented in their brochure. The services rendered by the department are interdependent with those of banks and inquiry agents, not in competition with them.

Renewal Inquiries

The trader who has secured information on his counterparty at the outset, should not neglect the obvious precaution of a periodical renewal. It is possible for the credit standing of a party to depreciate, at times with fair rapidity. The mere fact that the first inquiry evoked a favourable response, should not lull the home trader into a state of perpetual trust; he must make sure from time to time that the standing of the other party has not been affected either by his own action in losing trade or carrying on at a loss, or by economic events over which he has no control. Further, the mere fact that his own transactions have been satisfactorily concluded over a period is no guarantee to the home trader that the foreigner is still trustworthy to the original extent, whilst any increase in the volume of business with that party should be made the occasion for an inquiry to be put through in which the larger amount is mentioned.

Purpose and Nature of Inquiries

Most inquiries made through the channels mentioned above are instigated with a dual purpose. The exporter is, naturally and primarily, in business to make a profit—so he wants to know if a proposing buyer is good for the money. Apart from the purely financial angle, however, there is a character angle, sometimes referred to as "status." Many written inquiries refer specifically to "means and standing," or are even more extended. When a manufacturer is appointing a distributor overseas, or when a merchant is establishing a resident agent in a foreign country, the general character and suitability of the inquiree is of greater import than his bank balance. It

is recommended that inquiries should be carefully worded to ensure an answer which will establish suitability to purpose.

Carrying the Risk

The trader who makes inquiries and periodical renewals may be content to carry the credit risk himself; he may be prepared to have trade deals open with each counter-party up to the limits for which he has inquired, and he then sees that the total amount outstanding in which the credit of each buyer is concerned is not in excess of his limit. If as a result of a banker's credit having been opened, the credit risk is that of a bank of good standing, he adjusts his records to reduce the "line" open against the name of the buyer.

Insurance of Credit Risk

The alternative method by which an exporter can avoid the incidence of credit failure, is by insuring the risk. Credit risk insurance is usually provided by floating policies available for lines of trade in very similar fashion to the open cover against marine risk. Declarations are made by the same procedure as in marine insurance (which is explained in Chapter III) except that no certificate is issued by the insured. Policies of this type are issued by underwriters and insurance companies, some of the latter specializing in this class of business (e.g. Trade Indemnity Corporation). The risk is also underwritten by the Export Credits Guarantee Department, in the form of guarantee policies, and, in view of the great interest which has been taken in the activities of this Government Department, the chapter is concluded with a short account of the facilities they offer.

It should be made clear immediately that these facilities extend to much more than mere credit-risk insurance, and thus there can be no direct comparison between them and the credit-risk policies of commercial underwriters.

Export Credits Guarantees

Undoubtedly, the best way to study the forms of cover

against exporting risks is to take each separately, starting with the "short term" ones, and leaving whatever can be said about medium and long-term to a later section of the chapter. Most of the "exporters" whose activities are referred to in this book are the merchants and manufacturers whose transactions lie so largely in the field of consumer-goods exporting that such a sequence is logical; in the main, such goods, as well as some capital goods, are normally shipped and paid for within a reasonably short period of time after the initial placing of the order.

The Export Credits Guarantee Department was set up with the intention that it should offer exporters facilities for avoiding the incidence of losses arising from certain hazards thrown into prominence by the events of the inter-war years. An historical review of the period shows that various risks were then recognized which had not previously been defined: the credit risk, of course, had been known as such right through the peace—but the terms "transfer risk" and "manufacturing risk" had not previously been consciously applied to the hazards which circumstances enabled one to define with some clarity. Even the credit risk has been re-defined to distinguish its two elements, insolvency and non-payment, as will be shown in the "contracts policy" paragraph hereunder.

What the department offers in respect of short-term trade is two forms of policy insuring against the risks (apart from exchange risks) which have to be incurred in oversea trading. The facilities are available not only for United Kingdom exporters of home products, but also for re-exports and for "transit trade" entered upon by U.K. principals, i.e. sales to oversea buyers undertaken by U.K. merchants where the products (usually primary materials) originate in other oversea countries. (The importance of this type of trade has already been made apparent.)

It is proposed to leave over, for the moment, any mention of how an exporter sets about getting a policy, in order to devote immediate attention to the "contracts" policy and the

"shipments" policy, the two forms of insurance offered by the department.

The Contracts Policy. This policy covers an exporter whose trade involves a period of up to six months' credit to his buyers, dating from the time he accepts the order and continuing until due payment is effectively received in the United Kingdom. The risks covered are any or all of the following—

(1) The credit risk—

(*a*) Insolvency, i.e. that the buyer may be adjudicated bankrupt, or shall have made a valid assignment, composition, or other arrangement for the benefit of his creditors, or if a receiver be appointed to manage his affairs. If the buyer is an incorporated body (such as a company limited by shares, or whatever is the equivalent in the oversea country) then "insolvency" is interpreted to cover any order for compulsory winding-up, resolution for voluntary winding-up unless merely for reconstruction, or an arrangement binding on all creditors sanctioned judicially.

(*b*) Failure of the buyer to pay the contract price for goods delivered, within a year from due date.

(2) The transfer risk, i.e. the risk that circumstances may arise which prevent a solvent buyer from effectively transferring payment to the seller in the form of payment to him in the United Kingdom of the sterling amount. Thus the country of residence of the buyer may put into effect a law, or a decree having the force of law, which brings into effect exchange restrictions or a control making it illegal for the buyer to transfer payment to the U.K. in respect of an order given to the seller at a date prior to the introduction of the regulation or control. This could arise after ownership in the goods has passed to the buyer, in which case the sum of money is obviously the trade debt; or the regulations might be put into force before the goods had passed but after the acceptance of an order upon which manufacture had commenced—the extent of the loss upon resale elsewhere will then vary according to the degree of specialization in the manufacture and the state of the market.

(3) Risks associated with belligerency—

(*a*) Outbreak of war between the U.K. and the buyer's country; and/or

(*b*) civil war, rebellion, revolution, etc., in the buyer's country.

(4) Export licence risks, i.e. the cancellation or non-renewal of an export licence or the imposition of restrictions on the export of goods not previously subject to licence, which would frustrate delivery to the buyer of goods in respect of which the exporter, being a merchant, had contracted to purchase from a supplier or, if a manufacturer, had entered upon manufacture to the accepted order of the buyer.

(5) Interruption and/or diversion, i.e. any additional charges incurred in respect of the goods, shipped from the U.K., which arise from interruption or diversion of voyage outside the U.K., provided these cannot be recovered from the buyer.

(6) Omnibus cover, i.e. any other cause, outside the control of the exporter or his buyer, arising from events occurring outside the U.K., but, as already mentioned, excluding the exchange risk.

It is instructive to review these six classes of hazard with the "manufacturing risk" in mind: it will be seen that collectively they cover the manufacturer who accepts orders for products specialized to the requirements of an oversea buyer, such as textiles coloured to the tastes of a bazaar market, or electrical machinery to operate on supply mains of odd (non-standard) voltages and frequencies. Whereas the manufacturer's loss is not likely to be heavy in respect of a re-sale of standard products left on his hands by frustration of ability to deliver to the original buyer, re-sale of non-standard products may involve re-processing at a certain cost and/or sale at a substantial loss.

The contracts policy does not cover 100 per cent of the total loss: although it has been convenient to use the term "cover" (which might be interpreted to mean 100 per cent cover), in point of fact the department requires the exporter to retain a certain proportion of the risk in order that there may be a partnership-of-interest between them. Thus the maximum

payable by the department is 85 per cent of any loss due to credit failure (insolvency or delayed payment) or 90 per cent in all other cases.

Another point of interest is that the terms of the contracts policy cannot be interpreted to put upon the Department any loss arising from the bad faith of a buyer who refuses to take delivery. Suppose, for example, you sell to a buyer in the Near East a C.I.F. consignment of artificial jewellery—he having ordered when the local market is short of goods and with prices rising—and a slump occurs before the goods are landed. If he then refuses to make provision for payment against the documents in the terms of the C.I.F. contract, your recourse is against him, not against the department. You must take such legal action as is open to you in enforcement of the contract; though if you force him into insolvency with, say, a claim for loss on re-sale of merchandise, the matter is brought back within the terms of the policy.

Something further must also be said in regard to the "transfer risk": it is naturally of some importance that the datum line be fixed with proper clarity. Thus if X ships goods to Y in a foreign country and Y's country, before payment takes place, introduces a measure prohibiting the transfer of sterling to United Kingdom trade creditors, then X must know how long he has to await transfer to him of the frozen debt before he can secure payment from the department; this period is six months from the due date of payment.

The doctrine of subrogation applies in accordance with the basic principles of insurance practice. Subrogation is defined as "the right which one person has to stand in the place of another and avail himself of all the rights and remedies of that other." This meaning can be simply illustrated: suppose X had recovered his 90 per cent from the department, in the example above, at the end of the six months. Then suppose the debts due from commercial debtors in Y's country (including that of Y to X) are lined up in chronological order for payment as sterling becomes available; at some time, say twelve months afterwards, Y's debt has crept to the top of the waiting list

and is transferred. Then obviously the department is entitled to repayment since X cannot expect to be paid twice in respect of the one debt; further, again as in insurance practice, the department can require X to take all such steps as are open to him towards recovery even though he is (relatively speaking) happy to have received payment from the department and might like to consider the matter closed if it rested with him alone.

Somewhat similar principles apply in other types of payment by the department (e.g. in the case of insolvency of the buyer). The exporter who recovers from the department is still required to take all possible steps to recover from the trade debtor, if it is considered appropriate that this should be done in the creditor's name. Of course, if circumstances are such that it is more appropriate for the department to undertake the necessary action direct, that course is followed. Any sums recovered by the exporter, or by the department, are split between the department and the exporter in the ratio of 85 : 15 in the case of credit risk recoveries, or 90 : 10 in other cases.

The Shipments Policy. Exporters who feel that the contracts policy is more elaborate than their needs require, can propose a "shipments" policy instead. This is more appropriate where the merchandise is of a standardized type or, in other words, where the "manufacturing risk" is negligible. The "shipments" policy, as its name implies, is taken out in respect of shipments and not in respect of contracts; it covers the exporter from the date merchandise is transferred for delivery to the oversea buyer, not from the date when the order is accepted.

The risks "guaranteed" clauses are the same in both except that the "shipments" policy omits the "export licence" paragraph. The two policies have common phraseology at most material points, except for replacement of the word "contracts" by the term "shipments." It is instructive to compare the two, for which purpose specimens are included at the end of this chapter.

Proposing for a Policy

The exporter's application to the department is known, in line with insurance practice, as a "proposal." Printed forms are issued for the purpose and can be obtained from any of the department's offices (for addresses consult the *Board of Trade Journal*). The department's practice is to supply the exporter with a specimen policy along with the proposal form. When the exporter has read the specimen policy and obtained such advice on the matter as he considers necessary, he completes the proposal, which is a request to the department to disclose to him the terms they are prepared, after examination, to apply in the case of his particular business. The form requires disclosure of—

(1) Total extent of trade to be covered.

(2) Nature of the merchandise (lethal weapons cannot be covered).

(3) Breakdown of business by countries to which exports are made by the proposing exporter.

(4) Statement of exporter's experience in the last five years, including bad debts incurred.

(5) Number and credit limits of accounts.

(6) Sources of status information drawn upon.

(7) Various declarations, e.g. that facts are certified, correspondence will be treated as confidential, etc.

How it Works

Suppose an exporter has made a proposal to the department, which appears to be acceptable to them. They quote the premium they propose, each country separately; the premium asked is such a sum per cent as the department's experts consider would suffice to cover them against the risks of loss, based on actuarial approach. The premium asked varies from one country to another, according to circumstances, and from one transaction to another, according to the kind of payment terms which the exporter has arranged with his buyers. Clearly, if other things are equal, when A has stipulated "cash against

documents on arrival in oversea centre" the credit risk is not so great as in the case of B who gives his buyers terms reading "open account, buyer remitting by bank air-mail transfer one month from receipt of documents." Then again, the transfer risk is much higher in the case of certain foreign countries than it is in respect of others. So, too, one exporter's business may be found amongst a large number of buyers in a small way of business, while another handles a type of trade where the buyers are all well capitalized and substantial firms. It is quite impossible to estimate the varying force of all these different criteria; even if conditions remained fixed it would be difficult—whereas the real world of international trade is a place where constant changes are the order of the day.

Premium charges having been quoted and agreed by the exporter, "limits" have to be considered. As mentioned in a previous chapter, the exporter sets limits to the accounts he has open with oversea buyers. Such limits refer to the debts the exporter is prepared to have open at any one time, and the department may be prepared to agree that these limits be maintained. Alternatively, they may—in the light of their own information files on oversea importers—propose some modification of the exporter's limits: these matters have to be agreed upon as part of the negotiations between the exporter and the department.

Apart from limits imposed and agreed in specific cases, exporters can be given non-vetting limits, i.e. on turnover with individual buyers on which the department is prepared to give cover, to the extent of the "non-vet," without prior submission of names; here, if a claim should arise at a later stage, the exporter would be required to show that he had made the usual status and character inquiries and had given the matter as much care and attention as would have been given had there been no export credits guarantee.

During the course of business, policy-holding exporters have to make monthly returns on forms supplied by the department. In the case of a "contracts" policy, the form is

No. E.C.G. 339, and it gives a statement of all contracts made with all buyers during the previous month and the total gross invoice value of all shipments made to all buyers during that month. In the case of a "shipments" policy, form E.C.G. 339/A is used to give a declaration of shipments during the month. All that is needed is a list of the countries supplied, in alphabetical order, each with its appropriate total(s). The forms are quite simple to complete, provided the exporter has made up his mind that Hong Kong (at time of writing) is not China, and has agreed to conform to either "Demarara" or "British Guiana," and, either "Santo Domingo" or "Dominican Republic," and such trifling sources of doubt.

The declaration forms are required to be submitted in duplicate after the end of each calendar month. To accompany them, the exporter submits a statement of amounts overdue on form E.C.G. 277—not in duplicate; "overdue" in this connection means "unpaid in part or in whole for more than three months from the original due date."

It appears hardly necessary to lumber up this book with specimen declaration forms. On the other hand, specimen proposal and policy forms have been included hereunder, by kind permission of the department; students are recommended to examine them carefully, firstly as an extending mental exercise and secondly for the many points of detail which have not been examined in the text.

Other E.C.G.D. Facilities

Apart from the short-term facilities, we have been examining, the department is prepared to consider granting guarantees in cover of medium-term transactions. The type of trade at issue here is mainly in those capital goods which do not lend themselves to short-term financing; examples are plant, equipment, heavy machinery.

The buyers may be commercial importers in the ordinary sense of the term, or they may be oversea authorities of some kind—municipal or State.

Even when financed on "progress-payment" terms, trade in

these goods may require credit running into three or even five years from the date of the contract, even when it is possible to commence delivery and/or installation fairly promptly. But as these exports are highly individualistic, the proposal and policy are conceived to fit the requirements of each case as it arises; standard forms are hardly suitable, though the basic principles are applied in the same way as has been explained. It is recommended that the exporter should approach the department as early as possible in his negotiations.

In addition to short- and medium-term policies, the department has on several occasions provided guarantees for more than five years in respect of export contracts with foreign governments. In 1936, credit for £10 millions was given to the U.S.S.R. by this means, whilst in 1938 a credit was arranged for Turkey for the same sum.

Whilst the transactions of the department are thus open for medium- and long-term financing, it is in the realm of short-term policies that they achieve the main bulk of their increasing turnover.

SPECIMEN PROPOSAL FORM FOR "CONTRACTS" POLICY

E.C.G. 335

To the EXPORT CREDITS GUARANTEE DEPARTMENT
9 Clements Lane, Lombard Street, E.C.4.

PROPOSAL FOR AN E.C.G.D. (Contracts) POLICY

We have read a specimen of your E.C.G.D. (Contracts) policy V and request that you will inform us of the terms on which you are prepared to guarantee under the conditions of such policy the payment to us of a proportion of any loss as therein defined that we may sustain in respect of goods to be shipped from the United Kingdom after the date hereof under contracts already entered into by us and any other contracts made by us during the period from the date hereof to . . .. 194 ....

DECLARATION

1. The total gross invoice value of the goods yet to be shipped under all our existing contracts at this date is £ . .. .as declared (per country) in the Schedule hereto.

2. The goods the subject of all the contracts above mentioned shall be. .... and we undertake that they shall be wholly or partly produced or manufactured in the United Kingdom and shall not include any weapons of war or other goods which in the opinion of the Department are constructed or intended for destructive use in war.

3. We have not insured, assigned or pledged any part of the purchase price receivable under any such contract as aforesaid or any right or interest acquired by virtue thereof or received any indemnity or security whatsoever in respect thereof, and we will not effect any such insurance, assignment or pledge or receive any such indemnity or security without your prior consent in writing.

4. (*a*) We anticipate that our total export business with ALL countries in the period stated will be—

	*Country	Amount	Credit Period		For use in Department	
			Average	Maximum	Rate	
						Policy Period. . to .
A.		£				Max. Liability £ .
B.						N.V. Credit £ . . ..
C						N.V. C.A.D. £ . . ..
D.						Dep. Premium £ . ....
E.						
F.						Special Conditions
G.						
H.						
I.						
J.						
K.						
L.						
M.						*Signed* ... .
N.						*Date* . . ..
	Total	£				

* If space insufficient, attach separate signed statement(s).

(*b*) The total includes approximately...........per cent in respect of sales for cash on or before delivery.

5. Our export turnover and bad debts, which terms shall mean the actual losse incurred on all buyers overseas, exclusive of compensation received from agents insurers and any other source for the previous five completed years and the subsequent period to date, have been as follows—

Country	For each of the last five (completed) financial years ending 19										Subsequent period to date	
	Turnover, £					Bad Debts written off*					Turnover	Bad Debts written off
	19	19	19	19	19	19	19	19	19	19	£	£
A												
B.												
C												
D.												
E.												
F.												
G.												
H.												
I.												
J.												
K.												
L.												
M.												
N.												
Total	£					£					£	£

* The figures shown under this heading should only be those arising from the insolvency of the Buyer.

6. We append—

If "none" please state.

(*a*) a note of any exceptional losses on individual firms o countries;

(*b*) a statement of overdue accounts with an estimate of possibl losses thereon.*

7. The approximate number and credit limits of our accounts are as follows—

Number	Credit Limits	Number	Credit Limits
	Up to £100		£501/£1,000
	£101/£250		£1,001/£2,500
	£251/£500		£2,501/£5,000

8. The sources from which we obtain information regarding prospectiv buyers are—

9. We are not aware of any circumstances relating to any particular buyer or contract which might adversely influence your acceptance of any of the risks submitted.

10. Unless otherwise agreed by the Department in writing the policy for which we are asking you to quote is not to attach

(*a*) to any contract entered into with any buyer in whose profits we have any interest, direct or indirect, or who has any interest in our business, or

(*b*) to a contract entered into with any buyer or to any shipments to such buyer after we have learnt that he is in financial difficulties or that his position appears to be such as to make shipments to him undesirable.

11. We undertake to carry on our business with due care in making contracts and in regard to the conditions of the contract and the trustworthiness of the buyer, and we further undertake to declare under the terms of the policy ALL contracts made with any and every buyer covered by this proposal unless otherwise agreed by the Department in writing.

12. All discussions and correspondence in connection with this Proposal and with any policy arising therefrom are to be treated by both sides as confidential, and we undertake not to disclose any of the details to our agents or to the buyers or to any other person or concern other than in confidence to our brokers referred to below or our bankers without the prior consent of the Department in writing.

13. We certify that the representations made and facts stated by us are true, and that we have not misrepresented or omitted any material fact which might have a bearing on the policy, and we agree that such representations and facts shall form the basis of and be incorporated in the policy and that the truth of such representations and facts and due performance of each and every undertaking contained herein or in the policy shall be a condition precedent to any liability of the Department thereunder.

Exporter's Signature .

Address ..

. .

Business . ....

Date 19....

FOR USE WHEN THE PROPOSAL HAS BEEN INTRODUCED BY A BROKER

Name of Broker . ...

Address . . . .

If no Broker is to be concerned, please insert "NIL."

....

Exporter's Signature . ...

Date . ... 19 ....

SCHEDULE

Country	Approximate total gross invoice value of goods yet to be shipped (per country)	Remarks (if any)

If any contract included in the above Schedule provides for a period of shipment extending beyond twelve months from the date of the relative contract the date at which such period of shipment ends and No. of the relative contract (or other means of identification) must be noted under "Remarks" above.

SPECIMEN PROPOSAL FORM FOR "SHIPMENTS" POLICY

E.C.G.335/A.

To the EXPORT CREDITS GUARANTEE DEPARTMENT
9 Clements Lane, Lombard Street, E.C.4.

PROPOSAL FOR AN E.C.G.D. (Shipments) POLICY

We have read a specimen of your E.C.G.D. (Shipments) policy V(s) and request that you will inform us of the terms on which you are prepared to guarantee under the conditions of such policy the payment to us of a proportion of any loss as therein defined that we may sustain in respect of goods shipped from the United Kingdom during the period from ... . 194. , to . ... 194 , under contracts entered into by us.

DECLARATION

1. The goods the subject of all the shipments above mentioned shall be .... and we undertake that they shall be wholly or partly produced or manufactured in the United Kingdom and shall not include any weapons of war or other goods which in the opinion of the Department are constructed or intended for destructive use in war.

2. We have not insured, assigned or pledged any part of the purchase price receivable under any such contract as aforesaid or any right or interest acquired by virtue thereof or received any indemnity or security whatsoever in respect thereof, and we will not effect any such insurance, assignment or pledge or receive any such indemnity or security without your prior consent in writing.

3. (*a*) We anticipate that our total export business with ALL countries in the period stated will be—

	*Country	Amount	Credit Period		Rate	For use in Department
			Average	Maximum		
						Shipment Period to ..
A.		£				Max. Liability £ .
B.						N.V. Credit £ .. .
C.						N.V. C.A.D. £ ..
D.						Dep. Premium £
E.						
F.						Special Conditions
G.						
H.						
I.						
J.						
K.						
L.						
M.						*Signed* ....
N.						*Date* . .
	Total	£				

* If space insufficient, attach separate signed statement(s).

(*b*) The total includes approximately . per cent in respect of sales for cash on or before delivery.

4. Our export turnover and bad debts, which terms shall mean the actual losses incurred on all buyers overseas, exclusive of compensation received from agents, insurers and any other source for the previous five completed years and the subsequent period to date, have been as follows—

Country	For each of the last five (completed) financial years ending 19										Subsequent period to date	
	Turnover. £					Bad Debts written off*					Turnover	Bad Debts written off
	19	19	19	19	19	19	19	19	19	19	£	£
A.												
B.												
C.												
D.												
E.												
F.												
G.												
H.												
I.												
J.												
K.												
L.												
M.												
N.												
Total	£					£					£	£

* The figures shown under this heading should only be those arising from the insolvency of the Buyer.

5. We append—

If "none" please state.

(*a*) a note of any exceptional losses on individual firms or countries;

(*b*) a statement of overdue accounts with an estimate of possible losses thereon.

6. The approximate number and credit limits of our accounts are as follows—

Number	Credit Limits	Number	Credit Limits
	Up to £100		£501/£1,000
	£101/£250		£1,001/£2,500
	£251/£500		£2,501/£5,000

7. The sources from which we obtain information regarding prospective buyers are—

8. We are not aware of any circumstances relating to any particular buyer or shipment which might adversely influence your acceptance of any of the risks submitted.

9. Unless otherwise agreed by the Department in writing the policy for which we are asking you to quote is not to attach

(*a*) to any shipment made to any buyer in whose profits we have any interest, direct or indirect, or who has any interest in our business, or

(*b*) to any shipments made to any buyer after we have learnt that he is in financial difficulties or that his position appears to be such as to make shipments to him undesirable.

10. We undertake to carry on our business with due care in making contracts and in regard to the conditions of the contract and the trustworthiness of the buyer, and we further undertake to declare under the terms of the policy ALL shipments made to any and every buyer covered by this proposal unless otherwise agreed by the Department in writing.

11. All discussions and correspondence in connection with this Proposal and with any policy arising therefrom are to be treated by both sides as confidential, and we undertake not to disclose any of the details to our agents or to the buyers or to any other person or concern other than in confidence to our brokers referred to below or our bankers without the prior consent of the Department in writing.

12. We certify that the representations made and facts stated by us are true, and that we have not misrepresented or omitted any material fact which might have a bearing on the policy, and we agree that such representations and facts shall form the basis of and be incorporated in the policy and that the truth of such representations and facts and due performance of each and every undertaking contained herein or in the policy shall be a condition precedent to any liability of the Department thereunder.

Exporter's Signature . .

Address .. . . ..

. .

Business .

Date 19

FOR USE WHEN THE PROPOSAL HAS BEEN INTRODUCED BY A BROKER

Name of Broker . .. . . .

Address . ...

If no Broker is to be concerned, please insert "NIL."

. . ..

Exporter's Signature . .....

Date.... ....19. ..

SPECIMEN "CONTRACTS" POLICY

E.C.G. 336

EXPORTS CREDITS GUARANTEE DEPARTMENT

9 CLEMENTS LANE, LOMBARD STREET, LONDON, E.C.4

The E.C.G.D. (Contracts) POLICY

POLICY No. V/

POLICY made the day of 194 ,

between who carries on business at

(hereinafter called "the Exporter") of the one part and the Board of Trade acting by the **Export Credits Guarantee Department** (hereinafter called "the Department") of the other part.

WHEREAS the Exporter has made a Proposal dated the day of 194 (hereinafter called "the Proposal") that the Department should guarantee payment to the Exporter of a proportion of such loss as he may sustain in respect of certain contracts.

1. NOW THEREFORE in consideration of the premium paid and to be paid by the Exporter to the Department as specified in the Schedule hereto the Department agree subject to the terms hereof to pay to the Exporter a percentage of the amount of any loss as hereinafter defined which he may sustain in respect of goods sold to any buyer in the countries specified in the Schedule hereto and shipped or intended to be shipped from the United Kingdom on or after the date of the Proposal under all contracts to which this Guarantee applies by reason of the following causes—

Risks guaranteed.

(i) The insolvency of the buyer as hereinafter defined, or

(ii) The failure of the buyer to pay to the Exporter within 12 months after the due date of payment the contract price of goods of which delivery has been duly accepted by the buyer, or

(iii) The operation of a Law or of an Order, Decree or Regulation having the force of law, which in circumstances outside the control of the Exporter or of the buyer prevents, restricts or controls the transfer of payments from the buyer's country to the United Kingdom, or

(iv) The occurrence of war between the buyer's country and the United Kingdom, or

(v) The occurrence of war, hostilities, civil war, rebellion, revolution, insurrection, civil commotion or other disturbance in the buyer's country, or

(vi) The cancellation or non-renewal of an Export Licence or the imposition of restrictions on the export of goods not previously subject to licence, or

(vii) The incurring in respect of goods shipped from the United Kingdom of any additional handling transport or insurance charges which are occasioned by interruption or diversion of voyage outside the United Kingdom and which it is impracticable to recover from the buyer, or

(viii) Any other cause not being within the control of the Exporter or of the buyer which arises from events occurring outside the United Kingdom.

Provided that the Department shall not be liable for loss in respect of any risk which at the date when the contract is made can be insured with any other Government Department or is normally insured with commercial insurers.

And provided that where the sole ground of the claim is the insolvency of the buyer this Guarantee if not renewed will apply only where the buyer becomes insolvent on or before

2. This Guarantee shall apply in respect of all contracts complying with the conditions hereof declared by the Exporter in the Proposal and all contracts complying with such conditions and made by the Exporter between and for the sale of goods wholly or partly produced or manufactured in the United Kingdom. Contracts covered.

3. The percentage of the amount of any loss which the Department hereby agree to pay shall be— Percentage of loss payable

85 per cent where the cause of loss is the insolvency of the buyer or the buyer's failure to pay within 12 months of the due date of payment the contract price of goods of which delivery has been duly accepted by him, and

90 per cent where the loss is due to any other cause covered by this Guarantee.

4. In respect of every buyer there shall be— Credit Limit

(i) A Credit Limit which shall determine the maximum amount as hereinafter defined at any one time outstanding to which the Department's Guarantee shall apply in respect of goods delivered to that buyer on credit terms or placed at his disposal on payment terms of cash against documents, documentary sight draft, or documents against payment.

(ii) A Contract Limit which shall determine the maximum aggregate contract value as hereinafter defined to which the Department's Guarantee shall apply in respect of goods sold which are in course of preparation or transit. Contract Limit.

5. If in respect of any contract the buyer has irrevocably deposited to the order of the Exporter with a Bank approved by the Department any sum in the currency of the buyer's country, the amount to which the Department's liability would otherwise be limited by Paragraph 4 (i) hereof shall be increased by the Department's proportion of the sum so deposited converted into sterling at the rate ruling at the date of deposit. Currency Deposits.

6. The Department will pay to the Exporter the sum hereby guaranteed immediately after the loss has been ascertained, and such loss shall be ascertained— Ascertainment and Payment of Loss.

(i) where the loss is due to the buyer's insolvency as hereinafter defined, immediately after the occurrence of such insolvency;

(ii) where the loss is due to the buyer's failure to pay within 12 months of the due date of payment the contract price of the goods of which delivery has been duly accepted by the buyer, immediately after the expiry of the said period of 12 months;

(iii) where the loss is due to the operation of a Law or of an Order, Decree or Regulation having the force of law, which in circumstances outside the control of the Exporter or of the buyer prevents, restricts or controls the transfer of payments from the buyer's country to the United Kingdom, six months after the due date of payment;

(iv) in all other cases six months after the occurrence of the event which is the cause of the loss.

Recoveries.

7. Any sums recovered by the Exporter or the Department after the date at which the loss is ascertained from the buyer or any other source shall be divided between the Department and the Exporter (i) if the ground of the claim is the insolvency of the buyer or the buyer's failure to pay within 12 months of the due date of payment the contract price of goods of which delivery has been duly accepted by him, in the proportions of 85 and 15, (ii) in any other case, in the proportions of 90 and 10.

Effect of composition on insolvency.

8. The Department shall be under no liability for loss in respect of a debt as to which the Exporter has accepted a composition arrangement with the buyer unless the Department's prior approval has been obtained or the composition arrangement is legally binding on all creditors.

Maximum Liability.

9. The total liability of the Department under this Guarantee shall be limited to £ or such other total sum as may be agreed in writing between the Exporter and the Department.

CONDITIONS

Declarations.

C (1) The Exporter shall declare to the Department on or before the tenth day of each calendar month (i) all contracts and shipments made by him during the previous month to which the provisions of this Guarantee are, or may be, applicable and (ii) all amounts which at the end of the previous month remained wholly or partly unpaid for more than three months from the original due date in respect of shipments previously declared.

Payment of Premium.

C (2) The Exporter shall pay premium in the manner prescribed in the Schedule hereto.

Contract terms.

C (3) Unless the Department otherwise in writing elect this Guarantee shall not apply to any contract which—

(i) does not specify the nature and quantity of the goods sold, the terms of payment and the currency in which payment is to be made (being a payment in sterling or other currency approved by the Department); or

(ii) does not provide for the shipment of the goods within a period not exceeding twelve months from the date of such contract; or

(iii) involves the granting of credit by the Exporter to the buyer for a longer period than the maximum indicated against the buyer's country in the Schedule hereto;

Provided that the Exporter shall be entitled except in the case of cash against documents and/or documentary sight draft and/or documents against payment transactions to extend the due date of any payment for a period not exceeding 90 days from the original due date.

Exporter's obligations.

C (4) The Exporter shall—

(i) use all reasonable and usual care, skill and forethought, and take all practicable measures, including any measures which may be required by the Department, to prevent or minimise loss;

(ii) notify the Department in writing of the occurrence of any event likely to cause a loss within 30 days of his becoming aware of any such occurrence.

Action after payment of claim.

C (5) Upon payment by the Department the Exporter shall take all steps to effect recoveries from the buyer which may be necessary or expedient or which the Department may at any time require, including if so required the institution of legal proceedings against the buyer by and in the name of the Exporter, and the Department shall have the right at any time to require the Exporter to transfer to the Department his rights under any contract in respect of which payment has been made as aforesaid for the purpose of effecting recoveries in such manner as the Department may consider necessary or desirable.

C (6) Without prejudice to any rule of law it is declared that this Guarantee is given on condition that the Exporter has at the date of issue of the Guarantee disclosed and will at all times during the operation of this Guarantee promptly disclose all facts in any way affecting the risks guaranteed. Disclosure of facts.

C (7) If the Exporter makes any claim hereunder knowing the same to be false or fraudulent the liability of the Department hereunder shall thereupon cease and the Exporter shall have no claim hereunder, and shall repay to the Department on demand all sums paid by them and the Department shall be entitled to retain all payments made to them by way of premium. Fraudulent Claims.

C (8) No failure by the Exporter to comply with the conditions of this Guarantee shall be deemed to have been excused or accepted by the Department unless the same is expressly so excused or accepted by the Department in writing. Failure to comply with Policy Conditions.

C (9) (i) The Proposal and the Declaration thereto shall be incorporated with this Policy as the basis thereof and if any of the statements contained in the Proposal or the Declaration be untrue or incorrect in any respect this Policy shall be void, but the Department may retain any premium that has been paid. Proposal and Declaration.

(ii) Due performance and observance of each and every stipulation contained herein or in the Proposal or Declaration thereto shall be a condition precedent to any liability of the Department hereunder.

C (10) The Department shall be at liberty at any time to give written notice to the Exporter that as from such date (not being earlier than the date of the notice) as may be specified in the notice this Guarantee shall not apply to any contract that may be made with a buyer in any of the specified countries on or after that date. Withdrawal of cover.

C (11) The application of this Guarantee to contracts entered into with buyers in any of the countries specified in the Schedule hereto shall be further subject to the special conditions (if any) stated in the Fourth Column of the Schedule opposite the name of that country. Schedule Conditions.

DEFINITIONS

D (1) The amount of the Credit Limit for any particular buyer shall be— Amount of Credit Limit

(i) the amount approved by the Department on application for that purpose by the Exporter, or

(ii) where such application is not made the highest amount at any one time outstanding during the two years preceding the date of this Guarantee or such greater amount as may be justified by up-to-date information as to the credit-worthiness of the buyer obtained by the Exporter from at least two reliable sources but with a maximum of £ for credit transactions or £ for cash against documents and/or documentary sight draft and/or documents against payment transactions.

D (2) In all cases unless otherwise determined by the Department the Contract Limit shall be four times the Credit Limit, and shall be subject to the same terms and conditions as those on which the Department has approved the Credit Limit. Amount of Contract Limit.

D (3) The buyer shall be deemed to be insolvent for the purposes of this Guarantee when— Insolvency.

(i) he is declared bankrupt; or

(ii) he has made a valid assignment composition or other arrangement for the benefit of his creditors generally; or

(iii) a Receiver has been appointed to manage his estate; or

if an incorporated body—

(iv) an order has been made for compulsory winding-up; or

(v) an effective resolution has been passed for voluntary winding-up provided that such resolution is not merely for the purpose of reconstruction or amalgamation; or

(vi) an arrangement binding on all creditors has been sanctioned by the Court; or

whether incorporated or unincorporated—

(vii) such conditions exist as are equivalent in effect to any of the foregoing conditions.

Amount of Loss.

D (4) The amount of the loss shall

(i) as regards goods delivered, be the contract price for those goods less the amount which at the date as at which the loss is ascertained the Exporter has received in respect of them and less any sums or credits in the possession of the Exporter which the buyer would have been entitled to take into account by way of set-off or counter-claim or which the Exporter is entitled to appropriate in whole or part payment of the price of the goods;

(ii) as regards goods not delivered, be the contract price for those goods, less any expenses saved by non-fulfilment of the contract, and less any sums which, at the date as at which the amount of the loss is ascertained the Exporter has recovered from any source, including payment of any part of the purchase price, realisation of any security, and resale of any goods or materials.

SCHEDULE

Countries covered (1)	Maximum period of credit (2)	Premium rate per £100 (3)	Any special conditions applicable (4)
. ..			
.. .			
.. .			
. . . .			
. .			

Premium Payment.

(1) The rates of premium are per £100 of the face value of the contracts or as the case may be the gross invoice value of the shipments to which this Guarantee applies (including any insurance, freight or other charges payable by the Exporter on the buyer's behalf but subject to deduction therefrom of any irrevocable payments in sterling made by the buyer at the date of the contract of sale in accordance with the terms of such contract).

(2) Premium is payable as follows—

(i) on the Exporter's acceptance of the Department's letter of quotation dated

(*a*) the sum of £ which will be treated as a deposit and returned to the Exporter on the expiry of the Policy, or carried forward in the event of renewal. and

(*b*) the premium calculated at the rates set out in the third Column of this Schedule (or, as the case may be, at any varied rates for the time being in force) on 20 per cent of the face value of the contracts declared in the Proposal, no part of which premium will be returnable in any event, and

(ii) on the declaration of the contracts declared under this Policy the premium calculated at the rates aforesaid on 20 per cent of the face value of such contracts, no part of which premium will be returnable in any event, and

(iii) as and when a shipment is declared under this Policy the premium calculated at the rates aforesaid on 80 per cent of the gross invoice value of such shipment.

(3) Any premium rate may be varied upon written notice to that effect being given by the Department. In such a case, the change will take effect as from the date specified in such notice, and will apply to contracts entered into and shipments made on and after that date.

(4) If as respects any country the rate of premium for the time being in force is increased, the Exporter shall be entitled within 14 days from notification to him of such increase to exclude that country from this Guarantee and in that event no premium shall thereafter be payable in respect of any contracts made with or shipments made to a buyer in that country nor shall the Department be liable in respect of any contracts concluded or shipments made subsequently to that date.

SIGNED on behalf of the Board of Trade.

SPECIMEN "SHIPMENTS" POLICY

E.C.G. 336/A

EXPORT CREDITS GUARANTEE DEPARTMENT

9 CLEMENTS LANE, LOMBARD STREET, LONDON, E.C.4

THE E.C.G.D. (Shipments) POLICY

POLICY No. V(S)/

POLICY made the day of 194

between who carries on business at

(hereinafter called "the Exporter") of the one part and the Board of Trade acting by the **Export Credits Guarantee Department** (hereinafter called "the Department") of the other part.

WHEREAS the Exporter has made a Proposal dated the day of 194 (hereinafter called "the Proposal") that the Department should guarantee payment to the Exporter of a proportion of such loss as he may sustain in respect of certain shipments.

1. NOW THEREFORE in consideration of the premium paid and to be paid by the Exporter to the Department as specified in the Schedule hereto the Department agree subject to the terms hereof to pay to the Exporter a percentage of the amount of any loss as hereinafter defined which he may sustain in respect of goods sold and shipped from the United Kingdom to any buyer in the countries specified in the Schedule hereto by reason of the following causes—

Risks guaranteed.

(i) The insolvency of the buyer as hereinafter defined, or

(ii) The failure of the buyer to pay to the Exporter within 12 months after the due date of payment the gross invoice value of goods of which delivery has been duly accepted by the buyer, or

(iii) The operation of a Law or of an Order, Decree or Regulation having the force of law, which in circumstances outside the control of the Exporter or of the buyer prevents, restricts or controls the transfer of payments from the buyer's country to the United Kingdom, or

(iv) The occurrence of war between the buyer's country and the United Kingdom, or

(v) The occurrence of war, hostilities, civil war, rebellion, revolution, insurrection, civil commotion or other disturbance in the buyer's country, or

(vi) The incurring in respect of goods shipped from the United Kingdom of any additional handling transport or insurance charges which are occasioned by interruption or diversion of voyage outside the United Kingdom and which it is impracticable to recover from the buyer, or

(vii) Any other cause not being within the control of the Exporter or of the buyer which arises from events occurring outside the United Kingdom.

Provided that the Department shall not be liable for loss in respect of any risk which at the date when the shipment is made can be insured

with any other Government Department or is normally insured with commercial insurers.

And provided that where the sole ground of the claim is the insolvency of the buyer this Guarantee if not renewed will apply only where the buyer becomes insolvent on or before

2. This Guarantee shall apply in respect of all shipments complying with the conditions hereof and made by the Exporter between and of goods wholly or partly produced or manufactured in the United Kingdom. Shipments covered.

3. The percentage of the amount of any loss which the Department hereby agree to pay shall be — Percentage of loss payable.

85 per cent where the cause of loss is the insolvency of the buyer or the buyer's failure to pay within 12 months of the due date of payment the gross invoice value of goods of which delivery has been duly accepted by him, and

90 per cent where the loss is due to any other cause covered by this Guarantee.

4. In respect of every buyer there shall be— Credit Limit.

(i) A Credit Limit which shall determine the maximum amount as hereinafter defined at any one time outstanding to which the Department's Guarantee shall apply in respect of goods delivered to that buyer on credit terms or placed at his disposal on payment terms of cash against documents, documentary sight draft or documents against payment.

(ii) A Contract Limit which shall determine the maximum amount as hereinafter defined of the aggregate gross invoice value to which the Department's Guarantee shall apply in respect of goods in course of shipment. Contract Limit.

5. If in respect of any shipment the buyer has irrevocably deposited to the order of the Exporter with a Bank approved by the Department any sum in the currency of the buyer's country, the amount to which the Department's liability would otherwise be limited by Paragraph 4 (i) hereof shall be increased by the Department's proportion of the sum so deposited converted into sterling at the rate ruling at the date of deposit. Currency Deposits.

6. The Department will pay to the Exporter the sum hereby guaranteed immediately after the loss has been ascertained, and such loss shall be ascertained — Ascertainment and payment of Loss.

(i) where the loss is due to the buyer's insolvency as hereinafter defined, immediately after the occurrence of such insolvency;

(ii) where the loss is due to the buyer's failure to pay within 12 months of the due date of payment the gross invoice value of goods of which delivery has been duly accepted by the buyer, immediately after the expiry of the said period of 12 months;

(iii) where the loss is due to the operation of a Law or of an Order, Decree or Regulation having the force of law, which in circumstances outside the control of the Exporter or of the buyer prevents, restricts or controls the transfer of payments from the buyer's country to the United Kingdom, six months after the due date of payment;

(iv) in all other cases six months after the occurrence of the event which is the cause of the loss.

7. Any sums recovered by the Exporter or the Department after the date at which the loss is ascertained from the buyer or any other source shall be divided between the Department and the Exporter (i) if the ground of the claim is the insolvency of the buyer or the buyer's failure to pay within 12 months of the due date of payment the gross invoice Recoveries.

value of goods of which delivery has been duly accepted by him, in the proportions of 85 and 15, (ii) in any other case, in the proportions of 90 and 10.

Effect of composition on insolvency.

8. The Department shall be under no liability for loss in respect of a debt as to which the Exporter has accepted a composition arrangement with the buyer unless the Department's prior approval has been obtained or the composition arrangement is legally binding on all creditors.

Maximum Liability.

9. The total liability of the Department under this Guarantee shall be limited to £ or such other total sum as may be agreed in writing between the Exporter and the Department.

CONDITIONS

Declarations.

C (1) The Exporter shall declare to the Department on or before the tenth day of each calendar month (i) all shipments made by him during the previous month to which the provisions of this Guarantee are, or may be, applicable and (ii) all amounts which at the end of the previous month remained wholly or partly unpaid for more than three months from the original due date in respect of shipments previously declared.

Payment of Premium.

C (2) The Exporter shall pay premium in the manner prescribed in the Schedule hereto.

Currency and credit terms.

C (3) Unless the Department otherwise in writing elect this Guarantee shall not apply to any shipment which—

(i) is invoiced to the buyer in any currency other than sterling, or

(ii) involves the granting of credit by the Exporter to the buyer for a longer period than the maximum indicated against the buyer's country in the Schedule hereto;

Provided that the Exporter shall be entitled except in the case of cash against documents and/or documentary sight draft and/or documents against payment transactions to extend the due date of any payment for a period not exceeding 90 days from the original due date.

Exporter's obligations.

C (4) The Exporter shall—

(i) use all reasonable and usual care, skill and forethought, and take all practicable measures, including any measures which may be required by the Department, to prevent or minimise loss;

(ii) notify the Department in writing of the occurrence of any event likely to cause a loss within 30 days of his becoming aware of any such occurrence.

Action after payment of claim.

C (5) Upon payment by the Department the Exporter shall take all steps to effect recoveries from the buyer which may be necessary or expedient or which the Department may at any time require, including if so required the institution of legal proceedings against the buyer by and in the name of the Exporter, and the Department shall have the right at any time to require the Exporter to transfer to the Department his rights under any contract of sale in respect of which payment has been made as aforesaid for the purpose of effecting recoveries in such manner as the Department may consider necessary or desirable.

Disclosure of facts.

C (6) Without prejudice to any rule of law it is declared that this Guarantee is given on condition that the Exporter has at the date of issue of the Guarantee disclosed and will at all times during the operation of this Guarantee promptly disclose all facts in any way affecting the risks guaranteed.

Fraudulent Claims.

C (7) If the Exporter makes any claim hereunder knowing the same to be false or fraudulent the liability of the Department hereunder shall thereupon cease and the Exporter shall have no claim hereunder, and shall repay to the Department on demand all sums paid by them and the Department shall be entitled to retain all payments made to them by way of premium.

C (8) No failure by the Exporter to comply with the conditions of this Guarantee shall be deemed to have been excused or accepted by the Department unless the same is expressly so excused or accepted by the Department in writing. *Failure to comply with Policy Conditions.*

C (9) (i) The Proposal and the Declaration thereto shall be incorporated with this Policy as the basis thereof and if any of the statements contained in the Proposal or the Declaration be untrue or incorrect in any respect this Policy shall be void, but the Department may retain any premium that has been paid. *Proposal and Declaration.*

(ii) Due performance and observance of each and every stipulation contained herein or in the Proposal or Declaration thereto shall be a condition precedent to any liability of the Department hereunder.

C (10) The Department shall be at liberty at any time to give written notice to the Exporter that as from such date (not being earlier than the date of the notice) as may be specified in the notice this Guarantee shall not apply to any shipment that may be made to a buyer in any of the specified countries on or after that date. *Withdrawal of cover.*

C (11) The application of this Guarantee to shipments made to buyers in any of the countries specified in the Schedule hereto shall be further subject to the special conditions (if any) stated in the Fourth Column of the Schedule opposite the name of that country. *Schedule Conditions.*

DEFINITIONS

D (1) The amount of the Credit Limit for any particular buyer shall be— *Amount of Credit Limit.*

(i) the amount approved by the Department on application for that purpose by the Exporter; or

(ii) where such application is not made the highest amount at any one time outstanding during the two years preceding the date of this Guarantee or such greater amount as may be justified by up-to-date information as to the credit-worthiness of the buyer obtained by the Exporter from at least two reliable sources but with a maximum of £ for credit transactions or £ for cash against documents and/or documentary sight draft and/or documents against payment transactions.

D (2) In all cases unless otherwise determined by the Department the Contract Limit shall be four times the Credit Limit, and shall be subject to the same terms and conditions as those on which the Department has approved the Credit Limit. *Amount of Contract Limit.*

D (3) The buyer shall be deemed to be insolvent for the purposes of this Guarantee when *Insolvency.*

(i) he is declared bankrupt; or

(ii) he has made a valid assignment composition or other arrangement for the benefit of his creditors generally; or

(iii) a Receiver has been appointed to manage his estate; or

if an incorporated body—

(iv) an order has been made for compulsory winding-up; or

(v) an effective resolution has been passed for voluntary winding-up provided that such resolution is not merely for the purpose of reconstruction or amalgamation; or

(vi) an arrangement binding on all creditors has been sanctioned by the Court; or

whether incorporated or unincorporated—

(vii) such conditions exist as are equivalent in effect to any of the foregoing conditions.

D (4) The amount of the loss shall— *Amount of Loss.*

(i) as regards goods delivered, be the gross invoice value of those goods less the amount which at the date as at which the loss is

ascertained the Exporter has received in respect of them and less any sums or credits in the possession of the Exporter which the buyer would have been entitled to take into account by way of set-off or counter-claim or which the Exporter is entitled to appropriate in whole or part payment of the price of the goods;

(ii) as regards goods not delivered, be the gross invoice value of those goods less any expenses saved by non-fulfilment of the contract of sale, and less any sums which, at the date as at which the amount of the loss is ascertained the Exporter has recovered from any source, including payment of any part of the purchase price, realisation of any security, and resale of any goods or materials.

SCHEDULE

Countries covered (1)	Maximum period of credit (2)	Premium rate per £100 (3)	Any special conditions applicable (4)

Premium Payment.

(1) The rates of premium are per £100 of the gross invoice value of the shipments to which this Guarantee applies (including any insurance, freight or other charges payable by the Exporter on the buyer's behalf but subject to deduction therefrom of any irrevocable payments in sterling made by the buyer prior to the date of the shipment in accordance with the terms of the contract of sale).

(2) Premium is payable as follows

(i) on the Exporter's acceptance of the Department's letter of quotation dated   the sum of £
which will be treated as a deposit and returned to the Exporter on the expiry of the Policy, or carried forward in the event of renewal, and

(ii) as and when a shipment is declared under this Policy the premium calculated at the rates set out in the third column of the Schedule (or as the case may be at any varied rates for the time being in force) on the gross invoice value of such shipment.

(3) Any premium rate may be varied upon written notice to that effect being given by the Department. In such a case, the change will take effect as from the date specified in such notice, but will apply only to shipments made on or after that date.

(4) If as respects any country the rate of premium for the time being in force is increased, the Exporter shall be entitled within 14 days from notification to him of such increase to exclude that country from this Guarantee and in that event no premium shall thereafter be payable in respect of any shipments made to a buyer in that country nor shall the Department be liable in respect of any shipments made subsequently to that date.

SIGNED on behalf of the Board of Trade.

CHAPTER VIII

THE EXCHANGE RISK

AN agreement between buyer and seller in different countries to a contract in trade involves one or both of them in an exchange risk. The price quoted in the currency of the buyer results in an invoice, and possibly also a bill of exchange, both of which are expressed in the buyer's currency. The seller takes the risk that the eventual conversion into his money may yield him a smaller sum than he anticipated. On the other hand a price quoted in the currency of the seller leads to eventual payment to him of a sum certain in that currency, the risk being carried by the buyer of having to provide more than he anticipated of his own money in order to make the payment of that fixed sum in foreign currency.

Trilateral Exchange

Many contracts in international trade are concerned with two exchanges of money. A large volume of trade in goods which do not find their eventual market here is financed by London sterling credits and bills accepted by London banks, drawn in sterling. The point might not appear relevant to our present study, but, in fact, it largely affects our banks who (for example) provide the necessary exchange from continental currencies into sterling and from sterling into Indian rupees in payment of Indian exports to the Continent. Our brokers in the commodity markets are also interested, being responsible for arranging the relative trade deals, and this is merely one of the many examples which could be given of our interest in merchandise which passes from seller to buyer without necessarily touching our shores.

Prices in a Third Currency

It is sometimes possible for a buyer to express the price

of his purchase, and thus contract to pay, in neither his own nor the seller's currency, but in the money of a third country. So, too, for example, the seller may arrange for payment to be in dollars of U.S.A. currency when his buyer lives in one of the republics of Central America. At the present moment the measurement of liabilities by third currencies is not so usual as it was during the inter-war years, when continental traders stipulated for prices in U.S. dollars, but circumstances may again arise which might lead to a renewal of the practice.

Rates of Exchange

The buyer in our country who has agreed to pay in foreign money, and the seller here who has agreed to take payment in the currency of the buyer's country, are concerned with the rate of exchange between our pound and the currency of the country of the counter-party. A rate of exchange is defined as "The price of the unit of one currency in terms of another currency," and it may be quoted in one of two forms; either the foreign unit is expressed as so many pence (or shillings and pence) each, or so many of the foreign units are quoted to the £1 sterling. Examples are—

"Pence Rates"	
Indian rupee	1s. 6d. each
Straits dollar	2s. $4\frac{1}{4}$d. each
"Currency Rates"	
480 French francs	= £1
$4.03 U.S. currency	= £1
10·69 Dutch guilders	= £1

The rates quoted by the London banks and reported daily in the press, are for "T/T," i.e. telegraphic transfer, and are based on the rates in the market which exists in London, the market between banks who buy and sell claims to payment abroad in foreign currencies. They deal between themselves in T/T for some currencies, and with the Bank of England in currencies with which the exchange control is concerned. Rates of exchange are held steady at certain levels, often over long periods of time, but they are by no means immutable. The function of the banks is to deal with customers, buying the

amounts offered by customers who are receiving claims to be paid in foreign currency, and who thus sell them to the banks in order to get sterling in exchange, and supplying the demands for foreign currency arising from the opposite set of circumstances.

Fluctuations in Rates: The Risk

There are particular influences, apart from supply and demand for trade purposes, which affect the rates of exchange. These factors are beyond the control of the trader, and it is often beyond the merchant's power to foresee their effect on exchange rates. Unless he has some particular views arising from a close contact with economic conditions at home and abroad, the trader should not take any exchange risk. He can cover in the way best suited to his circumstances, by a contract with his bank, and he is best advised to consult the foreign department of the bank before he accepts the offer of goods for which he will have to pay in foreign money, or before he agrees to undertake an order at a price expressed in the foreign buyer's money. If this precaution is taken he will be assisted to rule out the chance of an exchange loss, and it should be emphasized that the rate quoted in the newspaper is not necessarily the rate he should use in his calculations. The circumstances in which the rate applied to his transaction may vary by a fair margin adverse to him are examined below.

Covering the Risk

There are several forms of exchange cover available with the banks. These are—

(1) **For Importers and Exporters**: where immediate payment is involved.

(*a*) An importer who owes foreign currency which is immediately payable pays by making a remittance or by meeting a bill of exchange, drawn at sight by the exporter abroad in his own currency. Sales by banks of remittances to foreign creditors have been examined in Chapter IV, and payment of creditors' drawings in Chapter VI.

The rate at which the importer's debt is converted into his own currency varies but little from the basic T/T rate ruling in the market at the time. Banks sell the currency of any given oversea country at the rate at which they can themselves buy from the exchange control, or (in the case of rupees) in the market, subject only to a small charge to cover their expenses.

(*b*) The exporters who have funds due to them sell the exchange to their bankers: should they have arranged to draw on their sterling-area debtors, the currency bills with attendant documents are sold to banks at rates of exchange which allow for the collecting commission and other expenses. When they draw bills in controlled currencies, the basic rate is the official one, and the banks make a small charge.

When no bill is drawn, the exporter can arrange for the foreign importer to pay the currency amount due to him, to the account of his own bank with one of their correspondents in the foreign centre concerned. On receipt of an advice that the funds have been received, the home bank credits the sterling equivalent to the exporter's account.

(2) **For Importers**: (Debt not immediately payable).

An immediate purchase of the foreign currency which he will have to pay eventually, is one possible course. The bank are prepared to sell the foreign exchange to the importer and hold it, until required, with their agent in the centre concerned in cases where the regulations do not prevent such a course.

The foreign currency purchased by the importer is held by his bank as part of their own balance with their agent abroad, "At the importer's risk and responsibility in every respect." The customer knows his funds are being held by a foreign bank whom his bank trust with their own business, and is seldom perturbed over the very remote risk of the failure of the foreign concern. When the time comes for payment to be made, he merely instructs his bank to hand over the funds to his creditor abroad and meanwhile he is sure that the import cannot cost him more than he has already paid out, by reason of any

appreciation in the value of the foreign currency. In other words, fluctuations in the rate do not affect him as he has covered the exchange risk.

The main drawback to this method is that it means "Being out of one's money." When he purchases the foreign currency, the importer pays immediately in his own money: he gives his bank a cheque, or his (sterling) account is debited. He might conceivably have used the funds in trade in the interim between purchase and the eventual payment abroad. Should short-term funds yield an appreciable rate of interest in the foreign centre concerned, his bank might give him interest on his foreign currency account, and he would be wise to compare—

(1) Any rebate he could get from the seller by paying "spot cash."

(2) What rate of interest, if any, he can get on the "currency hold account" balance.

(3) What rate of interest he could get on a fixed deposit of the sterling if he effected an alternative cover for the exchange risk (see Forward Exchange, below).

Then his decision, after a comparison of the rates of interest and exchange involved, gives rise to the course of action which is shown to cost him the smallest possible amount in his own money. A small debt need not give rise to abstruse calculations, as the possible saving is not worth the trouble, but if a large sum is involved the bank are pleased to reduce the various factors to a basis of pounds, shillings and pence, so that he can compare the alternative costs.

The customer's account in foreign currency is variously referred to by different banks as "clients' currency," "customers' foreign currency," "Nostro No. 2," "Loro" (i.e. "their") or "hold" account. The last term is universally understood in this connection, although it is not technically correct. The hold account is also very useful to the merchant who has reciprocal dealings in the foreign currency, as where he draws part of his raw material from a country to which he also sells part of his output; but it should be carefully

noted that, under conditions of exchange control, it is seldom possible for "hold" accounts to be set up in the controlled currencies for trading parties and then only after official permission has been obtained. The insurance companies and underwriters, who write risks and receive premiums expressed in foreign currency, also find the hold account a useful banking facility.

Bankers insist that customers having these accounts should refrain from drawing their own cheques for foreign amounts. The payee would have to arrange for them to be presented to the bank on whom they are drawn, and the bank in turn would have either to agree a conversion rate or issue their own draft in payment. This involves a waste of the payee's time; if he is resident abroad he has also to pay a collecting commission to his local bank, and possibly a revenue stamp to his government. In order to withdraw funds from his currency account, the holder should ask the bank to issue their cheque, or to make the necessary payment to the creditor, a course which is much more convenient to all concerned.

(3) **For Exporters**: (Debt not immediately payable).

Should the foreign importer have agreed that settlement is to be by a bill of exchange drawn in his currency at a certain usance, the exporter draws that bill, attaches his documents, and hands it to his bank. Under normal circumstances, and providing the parties pass the test of credit standing, the exporter's bank negotiate the bill in the manner described in Chapter V. This is not a sterling bill, and so is not "claused" in regard to the exchange; it is payable by the drawee (the importer), in his own currency, for the face amount as originally drawn. The bank buy such an instrument at a "long rate" if it is at 90 days' sight or three months' sight, or at a "tel quel" rate if it is drawn for any other period. The bank do *not* buy the bill at the current market buying rate of exchange and deduct interest, collection charges, foreign bill stamps, etc., from the sterling equivalent. What they do is to allow for those charges in the rate of exchange in the manner illustrated in the following examples—

Bill on Antwerp Fcs. 100,000 drawn at 90 d/s.

(*a*)	Current market rate	176·75 per £1
(*b*)	Discount 91 days @ 5% = $\frac{91}{365} \times \frac{5}{100} \times 176{\cdot}75$	2·2032
(*c*)	Collecting charges $\frac{1}{4}$%	0·4419
(*d*)	Bill stamp payable in Antwerp 1‰ . . .	0·1768
(*e*)	Risk, profit, etc., 1‰	0·1768
		179·7487
(*f*)	Nearest quotable rate above is 179·75 francs to £1	

To explain these items—

(*a*) The rate taken as a basis is the rate at which the bank could sell exchange (T/T) in the market, with the idea in mind that sending the bill to Antwerp for discount there would realize a sum in francs which could be immediately sold.

(*b*) The rate of discount applied is that which is ruling at the time for bills of this type (trade bills) in the foreign centre, i.e. the rate at which the foreign correspondent of the exporter's bank will discount the bill. Had the bill been drawn on the importer's bank (under a credit, for example) the discount rate ruling in Antwerp for bank bills would have been used.

The period for which discount is allowed is the period for which the bill is drawn (90 days in this example) plus the mail time to Antwerp (one day) which elapses before the bill is sighted.

(*c*) This being a documentary bill the bank charge their usual commission for collecting such an instrument: this commission is assumed to be $\frac{1}{4}$ per cent.

(*d*) The bill drawn in this country must bear an impressed stamp in payment of our revenue charges, which will thus be on the bill before it is negotiated. On the other hand, the Belgian bill stamp must be put on in Antwerp, and must thus be allowed for.

(*e*) This is a margin for risk of dishonour, the bank's own profit, and any incidental expenses.

(*f*) The various allowances are *added* to the basic rate, making the final quotation numerically higher, i.e. more francs to £1. The exporter has to cede more francs for every £1 the bank give him in return, or, in other words, he gets less in sterling for his bill than if the instrument were payable

immediately (involving no loss of interest) and without the expenses arising from foreign bill stamps, documentary collection charges, etc.

The final rate quoted by the bank represents the answer to the above or some similar calculation, adjusted to the nearest quotable rate above. A moment's thought will show that an adjustment in the other direction would mean that the bank were giving away part of their profit margin.

At the time of writing, practice rarely (if ever) provides examples of bank bill negotiations conforming to this type. The matter was at one time of considerable importance, and it is suggested that an acquaintance with the principles involved is essential to a complete equipment, as well as illustrating a method which it may be necessary to revive in the near future in exchange dealing.

(4) **Importer and Exporter: Forward Exchange.** A very valuable service provided by the banks is the cover for exchange risk by "forwards." An importer who has agreed to pay, at some time in the future, a sum in foreign currency, can usually arrange with his bank a rate of exchange now which is to be applied to the eventual payment. On the other hand, an exporter who quoted his price in foreign currency and allowed a credit period can usually sell the foreign currency to his bank at a rate fixed now, notwithstanding that he will not receive that foreign currency until some time in the future; when he "delivers" on the agreed date, that is when he receives the foreign currency from his debtor abroad and hands it to his bank, they pay him the equivalent sterling at the rate previously agreed.

An agreement to buy and sell forward exchange is embodied in a "contract," of which examples are given on page 170. These examples are the forms the bank send—

(*a*) "Bought contract," where they buy from an exporter.

(*b*) "Sold contract," where they sell to an importer.

The visualization of these forms, completed to meet the circumstances of particular cases, probably presents little difficulty to the reader. They are addressed to the customer

with whom the bank make the contract, the town in which the currency is to be handed over is inserted after "T/T" (e.g. Paris for French francs, New York for American dollars, etc.) and the rate, and the foreign and sterling amounts each appear in the appropriate place. The term "value," i.e. "value date," is applied to the date on which the currency is to be delivered abroad and the sterling paid here.

Options

It very often occurs that the trader cannot say for certain when payment abroad is to take place: he may be an importer who has arranged for the foreign exporter to send off the goods during a certain month, or he may be an exporter who has sold to an importer abroad for delivery during a certain period; during that period it suits him to have a margin of time to allow for early or late delivery from his suppliers, or from his own factory. Under these and similar circumstances the bank allow an "option date." This is *not* an option as to whether or not delivery of the foreign currency takes place: the customer *must* arrange the delivery, but he has the right to arrange it at any time between two stated dates, or during a certain period, e.g. "option during January, 19 . . " or "option 15th March to 14th April, 19 . . "

Conditions of Forward Contract

In the two specimen forward exchange contracts it will be noticed that the bank say "As per conditions on reverse hereof." Practice in stating these conditions varies between different banks, for some set them out in full whilst others omit them and rely on established practice. The two main stipulations which banks make, either definitely or impliedly from usual practice, are these—

(1) The customer with whom they make the contract must maintain a margin of 10 per cent of the sterling equivalent in some form of security. Very often a special deposit account is opened, and the sum which represents 10 per cent of the sterling amount shown on the contract is transferred from the

(A)

BANKERS TO THE TRADER, LTD.
LONDON, E.C.2

FORWARD EXCHANGE CONTRACT

To	Date

DEAR SIRS,

We confirm having BOUGHT from you as per conditions on reverse hereof T/T (town) for the amount of (in figures) (in words) Value .. on which date we shall $\frac{\text{hand you our cheque}}{\text{credit your account}}$ for the sterling equivalent, namely, £ at the agreed rate of .

Please confirm to us.

For and on behalf of
BANKERS TO THE TRADER, LTD.

(Signed) . .
Manager, Foreign Dept.

(B)

BANKERS TO THE TRADER, LTD.
LONDON, E.C.2

FORWARD EXCHANGE CONTRACT

To	Date

DEAR SIRS,

We confirm having SOLD to you, as per conditions on reverse hereof, T/T (town) for the amount of (in figures) . . . . (in words) Value on which date we shall $\frac{\text{expect to receive your cheque}}{\text{debit your account}}$ for the sterling equivalent, namely, £ . .. . at the agreed rate of ..

Please confirm to us.

For and on behalf of
BANKERS TO THE TRADER, LTD.

(Signed) .. . .
Manager, Foreign Dept.

customer's current account to this deposit account. A customer who would be inconvenienced by the depletion of his current account balance is at liberty to suggest some alternative method, such as a pledge of shares, deeds, or other security.

Whilst the contract is open, the marginal deposit must be maintained, so that a subsequent addition must be made to it if the rate moves adversely to the customer. If he has bought say, dollars at 5·00 to £1, and the rate moves to 5·05 to £1, he must provide approximately 1 per cent more, that being the extent of the depreciation. If he had *sold* the dollars to the bank at 5·00 = £1, an appreciation in the dollar to 4·95 would lead to a call on him for a further 1 per cent margin. When, eventually, the currency is delivered, the marginal deposit is refunded.

(2) Should the customer default, the bank reserve the right to "buy in" or "sell out" against the contract at maturity, i.e. on the value date. If the customer originally bought francs and then could not pay for them, when the time came to take them up, then on that day the bank sell his francs as "Spot T/T," giving him credit for any appreciation or charging any depreciation against his marginal deposit before handing over the balance of that account. Had the customer sold dollars originally, and proved unable to deliver them when the time arrived, the bank buy in to meet the contract; any depreciation results in a margin in the customer's favour, and any appreciation results in a charge for the loss against the margin.

Under conditions of exchange control, it is most unusual for conditions to arise where buying in or selling out are practised. Forward facilities in controlled currencies are only provided for legitimate trade transactions.

It must not be thought that the banks take any arbitrary line of action in connection with forward contracts; their forms are designed to protect them in the extreme case, which fortunately seldom arises. A customer who meets with some delay in his trade transaction normally finds his bank ready and willing to extend the period of a maturing contract, subject to an adjustment in the rate. That adjustment may be

in the customer's favour, for if he originally bought a currency which is now quoted at a discount forward, he is given the benefit of that discount; if he originally sold and forward is now at a premium, he gets the benefit of that premium. On the other hand, the customer who originally bought a currency which is now at a premium forward, or originally sold a currency which is now at a discount, finds his rate adjusted adversely by the current margin (see next paragraph for "Premium" and "Discount").

"Forward Rates"

Forward rates of exchange are usually quoted as a margin against "Spot" T/T. If T/T is quoted at 110 francs to £1 and forward three months ahead at three francs discount, then the buyer of three months forward gets 110 plus 3 = 113 francs, as an "outright" quotation. When a pence rate is quoted forward at a discount, it is again cheaper for the buyer, e.g. T/T Kobe 1/2$\frac{1}{32}$ per yen—3 months forward $\frac{1}{32}$d. discount, then the buyer gets his forward "outright" at 1/2 (1/2$\frac{1}{32}$ less $\frac{1}{32}$d.).

Should the spot and forward rates coincide, they are said to be "at par," and the quotation of a "premium" on forwards means that the buyer pays more, e.g.

(*a*) U.S. \$5·02 spot, three mths 1$\frac{1}{8}$ c. prem.

Outright forward three mths.

= 5·02 − 1$\frac{1}{8}$ = \$5·00$\frac{7}{8}$ to £1.

(*b*) Calcutta spot 1/6$\frac{1}{8}$ per rupee, forward $\frac{1}{16}$d. prem.

Outright forward three mths.

= 1/6$\frac{1}{8}$ plus $\frac{1}{16}$d. = 1/6$\frac{3}{16}$ per rupee.

It will be seen from these examples that a "discount" means that the importer who wants to buy forward currency, gets it cheaper than the spot rate, since in a currency quotation he gets more foreign currency for each pound and in a pence rate he pays less shillings and pence for each of the foreign units. On the other hand, the exporter who has to sell the foreign currency he is going to receive, gets less sterling when the forward is at a discount.

The "premium" on forward means that it is dearer for the importer who wants to buy forward, but more favourable to the exporter who wants to sell. These two types of forward margin are most easily remembered if the following rule is memorized—

Discount = cheaper for the buyer.
Premium = dearer for the buyer.

The actual premium or discount which is quoted at any particular time depends on conditions ruling for forward exchange at the time. Upon the outbreak of war in 1939, forward as well as spot rates for most important currencies were brought under exchange control, which became the sole arbiter of rates for those currencies.

Under controlled exchange conditions, forwards are usually quoted at so much *per month,* i.e. proportional to the period. This has not always been so, as is shown by the following quotations from further back in history—

Paris	1 month	$\frac{3}{8}$ fr. discount	not proportional
	3 months	3 frs. ,,	
New York	1 month	$\frac{3}{8}$ cent premium	in proportion
	3 months	$1\frac{1}{8}$,, ,,	

There is a greater volume of transactions in the forward market for one-month and three-month deals than for other dates, though two- and even six-month rates are also sometimes quoted. When a bank are called upon to quote any other periods, which they refer to as "broken dates," their rates are usually slightly out of proportion to the more usual ones.

Since the whole matter is one which may possibly be revised, it is hardly a "safe bet" to reproduce here the rates ruling at the time of writing; readers are referred to the current issue of *The Times* or the *Financial Times* for the day's quotations.

"Outright" Cover

The trader who is arranging to buy or sell goods at a price in currency for payment at some time in the future, should

inquire of his bank and ascertain the "outright" forward rate which would be applied if he made an exchange contract for the invoice amount of the particular trade transaction he contemplates entering into. It would be foolish to settle a trade deal to yield a profit on the current "spot" exchange rate appearing in the newspaper, only to find that the relative forward exchange cover took all the apparent profit out of the transaction. In the case of the importer, it might be possible to arrange an immediate purchase for "hold account," if he had idle funds, in the manner explained earlier in this chapter. In any case, the importer should consider whether any forward margin quoted adversely to him leaves open the other method as a more profitable alternative.

Delivery by Sight Draft

Forward contracts are usually for "T/T," by which the seller undertakes to deliver, in the foreign centre, currency for which he receives sterling on the same value date. This is called "valeur compensée" or "value here and there same day." A customer who has sold forward T/T to his bank, and who later receives payment by debtor's remittance of a sight bill or cheque on the foreign centre, can get his bank to take the cheque or bill as delivery, in one of two ways.

(1) The bank adjust the rate of the contract, to allow for their loss of interest in the foreign centre during the mail period, and pay out the relevant sterling at once.

(2) The bank send the cheque for collection and when it has reached the foreign centre and has been duly paid, then they pay over the sterling at the forward rate agreed.

In either of these cases the cheque or sight bill should be in the bank's hands before the value date of the contract, so that the foreign currency is collected abroad by the time that value date arrives. Should the instrument be drawn by a reputable bank, they adjust or collect as the customer desires; but if a private cheque is tendered, drawn by some party unknown to them, they prefer to collect the instrument before paying out sterling, in view of the risk of non-payment.

Forwards as Alternative Bill Finance

It may prove possible to sell forward to a bank against clean or documentary bills drawn payable in foreign currency, thus providing the exporter with an alternative to the negotiation of these instruments. Moreover, in approved cases, the bank are prepared to consider the bill (and documents) covered by a forward contract as if it were a bill in sterling, for the equivalent amount, and so discount it at the London discount rate. The London rate of discount may be much below that ruling abroad, yet the forward margin may not swallow up all this gain on discount rates. This is difficult to illustrate by examples from practice current at the moment of writing. It has been of major importance in the past, and may well be again: it is a topic on which one can only keep up to date by current reading and constant touch with conditions ruling. As has been emphasized before, no market is static—the normal practice of to-day gives place to a new normality to-morrow, so that the major successes in international marketing fall to those who can profit by the changing trends in international affairs, in finance as in straight selling and buying of merchandise.

It is usually considered that there is, relatively speaking, least risk of exchange losses in dealing with the countries of the sterling area, and a greater risk when the currencies of certain foreign countries are at issue. Indeed, the modern fashion is to treat the exchange risk as if it were almost non-existent between U.K. and Australian, New Zealand, or South African pounds: indeed, there is some reason for this attitude so far as U.K. exporters are concerned, since they normally invoice in their own currency, leaving the Dominion importer to bear any hazard which might arise. It may be considered significant, however, that the Dominion banks have sometimes encountered certain demands for forward exchange facilities on the part of traders in the overseas territories where they operate. As between U.K. pounds and the various currencies of the Americas, an uneasy post-war world thinks in terms of "scarce currencies," so that forward dealing facilities for

dollars are definitely a necessity for the smoothest attainable conduct of trade.

A Warning

In concluding this chapter, the writer would urge on importers and exporters the necessity for a close consideration of the exchange risk before the trade contract is made, and thereafter a comparison of the methods of cover applicable in the circumstances of the particular case. This is a point on which no trader need be bound by previous practice, nor is he necessarily restricted to the method considered usual in his trade. It is not a good practice, generally speaking, for traders to "take a view" on exchanges, and the safest course is to make full use of forward exchange facilities and so lay off the risk as soon as the trade transaction reaches a sufficiently advanced stage for this to be done.

CHAPTER IX

CONTROLS

PRIOR to the war of 1914–18 it was considered that the function of the State in relation to commerce and industry, including exporting, was confined to "holding the ring for private enterprise." In other words, the Government was supposed to ensure that trade was "free for all" within the limits of fair competition and reasonable trade practice. Active official intervention lay in two spheres, the legal and the international; in the legal sphere, laws were passed to support fair mercantile practice as established by trade custom; in the wider field, oversea interests of home nationals were, more or less, upheld by exerting diplomatic pressure, plus a certain amount of flag-wagging when the occasion seemed to demand something more than the gentler forms of persuasion.

When one considers what this meant in relation specifically to the conduct of the external trade of the United Kingdom, one has to examine how the State "held the ring" in oversea trade matters, or, to be more precise, what was the exchange policy and how was it put into effect. For all practical purposes, this means a study of the gold standard and how gold operated as an international balancer. This must be left for other textbooks to examine in the detail it deserves, for here our practical studies link with more theoretical ones in the realm of economics (and monetary theory in particular). The merchant or the exporting manufacturer of those far-off days could buy exchange freely, could contract for the sale and purchase of merchandise priced in any currency he chose, could go abroad with bank notes or letters of credit in his pocket and spend them when and where he wanted, paid his way with gold if he wished to, took a bit of a gamble on fluctuations in exchanges if he felt like it, and laid down consignment stocks in foreign countries where he thought he might

make more profit by so doing. To put it another way, the trader of those days was living in a world of "free exchange": he came up against the Government only if he was caught dabbling in certain forbidden drugs or lethal weapons, or trying to avoid customs duties on a few—a very few—dutiable articles such as alcoholic liquors or tobacco. On occasion, of course, exporters or importers got squeezed by exchange fluctuations resulting more or less directly from changes in interest rates. On this point, there are two points to be made: firstly, the change in interest rates was not always actuated by Government policy—it may have owed more to an independent board of directors of a central bank: secondly, if a trader did lose money because of a variation in an exchange rate, he at least had the consolation of doing so without having to fill in an official form.

In view of the fact that this book aims to be sternly practical, it is not possible to trace the sequence of events which make up the economic history of the last three decades. The most one can do here is to remark the drastic contrasts, and then go on to practical implications, leaving the theoretical studies—highly important though they undoubtedly are—to be examined elsewhere. Thus we pass directly to a brief survey of conditions as they are to-day in oversea trade, marking the contrast with pre-1914 days in passing.

The outstanding development is that the State, in the modern world, assumes a far greater measure of direct responsibility in connection with exports, imports, and all other operations coming within the general classification of oversea exchange. We have passed from a concept of the State "holding the ring" in a world of plenty to something basically and radically changed; the State, in the present world of scarcity, is assuming direct responsibilities for the welfare of individual citizens in sickness and in health, working or pensioned: directing, or even assuming absolute control of, many forms of economic activity; dictating what shall be externally exchanged and with whom; manipulating prices or directly fixing them, buying and selling for official account; practising

surgery on the living economic body instead of trying, as it did in the old days and then often ineffectively, an occasional essay in the application of remedial medicine.

It is not for us to argue, here, whether we like this or not, or whether or not we consider people to be better off for the change. The change has occurred; so we have to ask what are the practical measures enforced by to-day's laws and how do importers and exporters cope with them. Quite obviously imports and exports are still crossing political frontiers; equally obviously, the main bulk of the transactions are initiated by private enterprise; somehow or other, profits are still being made.

For convenience, the various official measures which now govern trade in its activities overseas can be lumped together as "controls." Hence the title of this chapter. In effect, however, the term "control" sounds more forbidding than practice has proved it to be.

These "controls" fall into three main classes, as follow—

(*a*) Control of commodities.
(*b*) Control of activities.
(*c*) Control of transactions.

Control of Commodities

In the world of scarcity, some goods are harder to come by than others. Some products fall into the category of "essentials" where others are of less significance and so can be called "less essential" or "non-priority"; yet others are "non-essential" or "luxury" articles. The statesmen of the different countries are concerned to secure a certain standard of nutrition, clothing, and housing for their peoples. Here it must be established as a basic factor that what is essential to one nation is not necessarily so essential—or may even be a luxury—for others. Thus wheat is essential for people in the United Kingdom, whilst rice can be relegated to a much lower classification. Conversely, rice is essential for eastern peoples, whereas wheat comes much lower on their list.

When the economic situation of any given country is under

consideration, the priority placed on any product applies to both home produced and imported increments of the total consumption it achieves. Thus we find attempts to co-ordinate home production with imports: if supplies tend to fall off or prove to be inadequate (e.g. following a poor harvest of any natural product) then steps are taken to increase production within the country, to restrict its export, and to encourage imports of the commodity so far as may be possible: though here it is worth remarking, if only in parentheses, that the increased imports will only be allowed if, and to the extent that, a conflict with long-term policy can be avoided. If the long-term plan is to achieve self-sufficiency from home sources, it is only with reluctance that importing will be allowed, and then only temporarily.

In many countries, official bodies have displaced private buyers (or private intermediaries) in handling imports and exports of the most essential primary products; in yet other countries official direction of private enterprise is employed to achieve the object, usually by collaboration with the existing structure. Bulk buying is practised in both ways. Where the State is directly responsible, the topic passes outside our present scope.

Apart from buying and selling on terms negotiated officially, there is a substantial trade in which private parties negotiate terms and conditions, but the State exercises overall control of quantities, and/or values, in relation to the named goods. If any product—whether bought and sold in its natural state, or semi-processed, or as a final complete good—is in short supply and it is considered that supplies should be conserved for home use, then a total ban will be put on the export of those goods. If the goods are scarce, but a small proportion only can be spared for exporting, then the export transaction is made subject to licence, such licence only being granted after careful investigation.

Conversely, if it is clear to officialdom that it must exercise control of the quantity imported, then the process applied is "import licensing."

Quite apart from import and export licensing, in many modern states there is control of materials used in production. This type of control is usually aimed to secure conformity with official intentions in regard to the manufacturing activity in the course of which it is consumed, which aspect of the matter introduces us to the next section.

Control of Activities

In many countries there is official control over the nature and extent of industrial activities, and this is important because of the degree to which such control affects the availability of exportable products, as well as because of the influence thus exercised on the use of imported materials.

We are here considering, not a single control, but a group of inter-related measures. Thus the modern tendency is to attempt an indirect effect by budgetary and financial means; the budget is conceived as an instrument of economic policy—it would be an exaggeration to say that "balancing the budget does not matter," but, in effect, the primary consideration is not so much financial as economic. Customs duties are levied on products which have to be imported from countries with whom we have an adverse balance of payments, purchase tax is raised on finished goods in the non-essential class in order to restrict demand for, and thus activity in, the production of such goods and to divert resources to the production of others higher on the list of priorities. Apart from the budget, there is direction of capital formation, both in the financial sense—approach to the investing public for money-capital—and in the economic sense, in which context "capital formation" means the acquirement of new assets such as buildings, plant and machinery, and so on. In association with these two there is another budgetary control in the shape of taxation on profits.

The various controls on activity which have been mentioned above are generally considered to be indirect in that they aim to affect the ordinary citizen when he thinks out how he is going to spend his income, so operating on the demand side

to change the pattern of productive and importing activities; or else they are indirect because they aim to affect the decisions of private enterprises regarding what it will be profitable for them to produce or what they, if they are producers of consumer's goods, will require of the capital goods industries.

Apart from these indirect measures, the State can use more direct ones which have the effect of diverting industry's demand, away from sources unable to cope with visible demand, towards alternatives, or away from scarce materials towards second-bests, i.e. substitutes. What is being considered here is really the rationing of materials to industry, achieved by licensing the use of such materials and/or by making the use of them contingent on certain marketing performance. Thus we have, in the United Kingdom at the time of writing, what amounts to rationing of steel, the approach to the "rations" being contingent upon a substantial given proportion of the product of any given industry, or of each unit in the industry, being sold abroad.

Restrictions on space compel much of this chapter to become somewhat generalized, and there is always the danger that an attempt at simplification may cause *over*-simplification. For this reason, the author trusts he may be excused for inserting constant reminders that much is necessary in the way of theoretical studies to fill in the brief framework remarked upon here. This applies with particular force when controls are being considered. The controls of to-day are a complex structure of wide ramifications.

At the time of writing, very few industries within the United Kingdom escape a very special form of direction. Industries which do not produce exportable products are being curtailed, except where they supply essentials in the way of food, clothing, and so on, and even then they are limited to the totals of the nation's ration-books. Industries which can produce for export are instructed as to the proportion of output which must be exported, reckoned at ex-factory prices. The penalty for falling short of the target is restricted access to materials,

which has the effect of reducing their total turnover. Within the proportions laid down, however, each separate firm proceeds on its own initiative. In other words, each firm makes its own arrangements for disposal of its export proportion.

Control of Transactions

(*a*) **Introductory.** Transaction-control is inter-related with the others. It is not set up in a vacuum, nor merely as an end in itself. So we find there is control of import and export transactions, connected at certain points with exchange control. As we have already mentioned import and export licensing, let us then get to exchange control as the outstanding matter for consideration under this heading.

(*b*) **Meaning of Exchange Control.** Although exchange control in the United Kingdom only dates back to 1939, when it came into force on the outbreak of war, it is nothing so very new. Certain foreign countries practised it many years before. But before getting too far into the topic, it might be as well to dispose of a bogy. In the inter-war years, and even before that, some States attempted to restrict fluctuations in the exchange rates for their currency. An official body was set up to buy foreign currency when the home currency tended to appreciate, and to sell foreign currency when the home currency got cheaper. This official intervention in the exchange market was operated within certain terms of reference laid down in advance as guidance for the operating body. Usually, the limits to which exchange rates would be allowed to fluctuate were laid down. Operations of this nature have been called "exchange control," but the term has to-day quite a different meaning, as is clear when it is remembered that the individual citizen was quite unrestricted in his actions. He could buy and sell foreign exchange, without asking permission, in settlement of any transactions he cared to enter into, whether trade, travel, or even speculation. Under the exchange controls of to-day, a certain code of rules is laid down which has the effect of restricting access to foreign currencies to various well-defined operations. Briefly, the importer or would-be

traveller has to secure official permission by applying on the appropriate form: the exporter to certain foreign countries must satisfy the authorities (and, here again, form-filling plays its part) that payment is received from the buyer in the manner officially laid down. For the purposes of the present chapter, it must be clearly understood that we are not now concerned with the limitation of fluctuation in exchanges to which the ordinary citizen had unrestricted access. We are talking about the more recent type of control which is actually laid on the exchange transactions entered into by debtors and creditors who have to pay and receive exchange.

When war broke out in Europe in September, 1939, it was obvious that the British Government would have to mobilize not merely the man- and woman-power of the nation, but all available industrial resources and all external purchasing power. Industry had thrust upon it the task of producing a vast output of products very different from the needs of peace. Although there was some attempt to keep exports going at the same time, it soon became clear that the capacity which could be spared for the purpose was a minute part of the whole. So we could no longer attempt to pay for imports with exports, whilst simultaneously we wanted to import more than ever before in the way of basic materials, arms, and ammunition, and also food. The individual could no longer be permitted access to foreign exchange for selfish imports of his needs, however real he may have believed them; national survival was at stake.

The exchange control, initiated in 1939, as subsequently amended, had the object of mobilizing all external resources, particularly in America, and of denying to the individual the opportunity of frittering away these resources when mobilized. Conversely, any exports which went to certain countries were of importance as adding to the resources of exchange, and in consequence a system was set up which prevented the exporter retaining control of the proceeds of his export. He was not allowed to use the export of goods as an "export of capital."

(*c*) **Sterling Area: Inside and Outside.** Mention of "exports" and "imports" in the foregoing paragraphs is incomplete unless the terms are more clearly defined. Normally, when these terms are used, one assumes they refer to exports from and imports into the United Kingdom. For war-time and post-war exchange control purposes, however, they meant the exports and imports of the sterling area. This included the dominions (except Canada) and the colonies, and also Eire and Egypt. In Australia, New Zealand, South Africa, Eire, and Egypt, controls were set up which conformed to the same general pattern as that operated from London for the United Kingdom and the colonies. This meant, in practice, that an importer in any of those countries had to apply, on a form which was virtually the same in all cases, for permission to make a transfer to any place outside sterling area. Such transfers were "transfers to a non-resident" whether paid in sterling, in the currency of the recipient, or (in rare cases) in third currencies. What might be called "repatriation of the proceeds of exports" conformed in all cases, too, to a common pattern throughout sterling area, whilst a consistent procedure was put into practice for London merchant financing and operations in exporting colonial products from country of origin to places outside sterling area, whether shipped direct or not.

(*d*) **"Official" Exchange Rates.** Under controlled exchange, the controlling body takes upon itself the function of dealing in exchange and the rates of conversion it applies are known as "official" ones. The responsibility is an inevitable one, since no exchange market can exist for free dealing—apart from any "black market" for which the door is left open by loopholes in the control regulations and their enforcement. Since the primary object of taking control is to mobilize exchange resources, the control cannot leave dealings to escape its net. These would only permit irresponsible transactions in goods which were not necessary for the national well-being and which would be used for private ends as opposed to the State's requirements.

It does not follow, of course, that the control will find a need

to fix official rates for all the other currencies of the world. If the exchange frontier is so fixed as to include a whole "currency area," then it follows that the only official rates required are for the currencies of countries outside the area. The Bank of England Exchange Control Department does not fix official rates between the U.K. pound sterling and the Indian rupee, the Straits Settlements dollar, the Palestine, Irish, Australian, New Zealand, or South African pounds, or any Colonial currency unit. The official rates are quoted for U.S.A. and Canadian dollars; Swiss, French, and Belgian francs; the florins of Holland, and of the Netherlands East and West Indies; Danish, Norwegian, Swedish, and Czech crowns; Portuguese escudos; and one or two others. In addition, transfers to such countries as Argentina, Brazil, Chile, Uruguay, Colombia, and the Central American Republics, have to be made in sterling, though the control quotes official buying rates for balances in the currencies of some of those countries which may come into the beneficial ownership of residents in sterling area.

Additionally, official rates are quoted for purchasing the bank notes of many of these countries, in order to provide sterling in exchange for the benefit of visitors from those countries who may bring them into the realm, and for U.K. residents who may return with small balances of spending-money left over from foreign travel. Conversely, though not normally quoted in the newspapers, there are rates for the sale of the small sums in foreign money which approved travellers are permitted to take abroad when they go.

It is recommended that students examine the exchange table in *The Times* or the *Financial Times* for the latest list, and for current rates.

(*e*) **" Scarce " and " Hard " Currencies.** With the development of the sterling area exchange control over the years since 1939, it has become clear that not all foreign currencies are needed with the same degree of urgency. Another way of saying the same thing would be to state that all foreign currencies are not equally scarce. Certain currencies are called

"hard," but the hardness is a relative matter. It was at one time thought that the hardness of any given foreign money had something to do with the gold reserves of the country in question. But more recent thought on the matter has inclined informed observers to re-define hardness in relation to the degree to which the foreign currency is desirable in the light of current needs. If England is running short of resources in the shape of Swiss francs or U.S.A. dollars and has great need of them to buy from those countries goods which are in short supply, then Swiss francs and U.S. dollars are hard currencies. At the same point of time the U.K. sterling pound might well be a hard currency from the Frenchman's viewpoint. It might be possible to construct a ladder, each rung representing a currency unit, so that they were in ascending order from the softest to the hardest. It is even being said on the continent of Europe that this ladder could be made up on the basis of the exchanges quoted in, say, Zurich for "free transfers." This, however, is fallacious since the rates quoted are likely to be affected by the relative efficiency of the exchange controls in the various countries. Be that as it may, there is another factor to be remembered. As a result of developments during and since the war, trade and payment negotiations have tended to become more and more bi-lateral; that is, they are negotiated between pairs of countries in default of a convincing multi-lateral mechanism. With trade and payments so regulated, it is just possible that if country A deals bi-laterally with B, and B with C, and C with A, that the flow of trade and payments could become such that A would be "hard" to B, B hard to C, and C hard to A. This is only an inconsistency when conceived by a mind thinking in terms of multi-lateralism.

(*f*) **Payment for Imports.** Currency grouping and bi-lateralism have been responsible for some complications for U.K. importers, but the trend is for traders—helped by official pronouncements—to reduce the related paper work to a matter of routine. The importer now knows that he has to make payment to his creditor in a manner consistent with well-defined

regulations, and not otherwise. Thus for a long period importers from the U.S.A. knew that they could pay either in dollars or in sterling. If they paid in dollars, the trade was regarded as a dollar debt in so far as the immediate parties (the importer and exporter) were concerned; but the importer had to buy the dollars from one of the banks authorized to deal in U.S. dollars. He was free to pay by mail, air-mail or cable transfer, or by accepting a bill of exchange drawn in dollars. But if the trade was entered upon at prices expressed in U.K. pounds sterling then the importer knew he had to pay in "registered account." He had, in other words, to go to his bank and arrange for the amount due to be credited in pounds to the sterling account of an American bank officially recognized as "registered" by the exchange control. Here again the advice of payment could go by surface mail, air mail or cable, or the financial instrument could be a bill of exchange accepted by the importer, according to arrangements made by the parties. What mattered was the form of transfer, however payment might be advised or whatever the financial instrument called into service.

From time to time the names of authorized foreign accounts are changed. Hence it would be futile to illustrate what is being said here by including an exchange control application form as currently used. So far, the power of exchange control in the United Kingdom has vested in the Treasury, and it has been operated by the Bank of England Exchange Control Department, which in turn receives applications through the banks. Certain powers are delegated to the banks, as well as certain duties. For all practical purposes, the public does not approach the Bank of England direct, but only through commercial bankers. Over the years, traders have found their banks very helpful in coping with exchange control requirements, though initially there were occasional misunderstandings as they were not always "talking the same language." It is easy enough to say to an importer or exporter "go to your bank with your queries about exchange," but the difficulty is very often to find out just what the query is when

viewed as relating to an oversea transfer operation divorced from its commercial context and related complications.

In U.K. practice, the exchange transfer in respect of goods whether invoiced in sterling or in foreign currency, requires certain documentation. The application lodged with the bank must be accompanied by a copy of the "settlement invoice" and a part of the bill of lading; the settlement invoice, as required by the authorities, should correspond to the amount which it is desired to transfer and this includes all charges, expenses, etc., incurred towards the seller. It is the C.I.F. price which is required to be paid, in the majority of cases, though if the purchase were made F.O.B. and freight and insurance premium paid in the U.K. in sterling, then the "settlement invoice" corresponds to the commercial invoice at F.O.B. prices.

In some foreign countries procedure is not quite so simple. In certain South American countries, for example, the importer has to obtain a prior permit before he places his order for the merchandise. In some other countries the importer has to obtain an import licence as a pre-requisite, and also a prior exchange permit. The import licence does not carry with it the automatic right to an eventual allocation of the sterling exchange to pay for the goods.

(*g*) **Special Cases.** Exchange controls have interfered with normal terms of purchase-and-sale-of-goods contracts in some countries. For example, the Argentine buyer of British exports is not allowed to transfer payment until the merchandise has been landed and cleared through the customs. So, although normally a C.I.F. contract requires the buyer to provide for payment against presentation of the documents, it is impossible for the Argentine importer to do so. All he can do is to lodge a provisional sum in his own currency (pesos) with the bank which presents the documents. This being the case, the U.K. collecting bank should be instructed that such currency deposit be accepted, in order that the buyer may be given access to the documents and so clear the goods, and eventually take the final steps towards securing permission for his peso deposit

to be used in payment for the sterling transfer to the U.K. exporter.

Another complication in foreign practice of exchange control is the differential exchange. Since this complicates matters for any exporter in attaining the target turnover his market research has led him to set up, and vitiates the price policy of the manufacturer if not properly allowed for, it deserves brief examination. In one or two countries, goods are classified according to a schedule of priorities and the rate is varied according to the classification. The importer pays less local currency units per £1 or per U.S. dollar for an "essential" import of machinery, than he does for a "luxury" import such as a motor car. In one country a scheme was operated for a time whereby available balances of foreign exchange were used first in settling for licensed imports in the essential or near-essential groups, and anything left over was put up to auction amongst importers of other types of goods. For this reason it is important that when market research is undertaken the inquirer should make sure what exchange rate will be applied in the related conversion. If this is not done the inquiry may prove misleading in that the products will be considered as being purchasable by income groups, which will not be able to buy when the merchandise eventually gets to market, because the conversion rate has proved higher than was foreseen.

(*h*) **Form C.D.3.** It has already been remarked that exchange control, to be watertight, must govern the repatriation of proceeds of exports. This is accomplished in British practice by the use of a form known as "C.D.3." The form is made out in duplicate by the exporter to non-sterling countries. It accompanies the goods on their outward journey as far as the port of embarkation, where it is picked up by the customs authorities; they retain the original and return the duplicate to the exporter.

The C.D.3 is in essence an undertaking by the exporter to obtain payment in a form specified by the control for transfers from any non-sterling country of destination of the

merchandise. When first made out it incorporates a brief specification of the merchandise, with the names of the parties.

If and when payment is received by the exporter, he must lodge the duplicate with his bank, with a copy of the settlement invoice attached. Suppose, for example, he has arranged to receive payment in U.S. dollars in New York for merchandise exported to New Orleans, with advice by cable through his bank, then he lodges the form with the note he receives from the bank to say the dollars have been paid over. The bank can then certify to the control that the dollars have been accounted for, which they do in a space provided on the duplicate form. The completed forms are sent to the customs house, where they are matched with the originals, and the attached copies of settlement invoices are scrutinized for irregularities.

If payment is not received in reasonable time, the exporter is required to furnish an explanation.

Writing in an article in *The Banker*, before the end of the war in Europe, I said of this form that it was an efficient but somewhat clumsy device. Experience has not proved possible the evolution of anything less cumbersome: indeed, if it should still be considered worth making the same comment, there can be no doubt that exporters have become so accustomed to the formality that most of them find it a trifling routine.

(*i*) **Some Practicalities.** In the conduct of day-to-day exporting, merchants and manufacturers encounter what might, at first sight, appear to be complications arising from the expenses they are bound to incur in order to promote their trade. Over years of practical experience in conducting exchange control, our authorities have learned how to handle these matters with directness and precision. In the early days, exporters were heard to complain, on occasion, that the authorities were out of touch with practicalities. To-day, it would probably be true to say that the boot is on the other foot. If the authorities were now as vocal about the supposed

sins of the exporting fraternity as the exporters were originally about the exchange control, they could probably say with truth that there is a tendency for the exporters to ignore the fact that they must make proper advance provision for these contingencies. Two examples will make this clear—

(1) A London merchant appoints X as his agent in a foreign country, on a percentage commission basis, such commission being payable in arrears on the F.O.B. values of exports to the territory during the preceding quarter. When the settlement date arrives, the merchant must apply for permission to transfer the funds to X in the foreign country. The application form must be accompanied by proper documentation, particularly a statement of the turnover netted to F.O.B. prices with a calculation arriving at the commission to be transferred, and also the corresponding C.D.3 details including serial numbers.

This has now been done so many thousands of times that the Control is not only fully aware of the trade practice in regard to agency commissions but also of the many variations on the main theme (such as a sharing of the agent's expenses, special consideration for case-of-need or other del credere activities, and so on).

In circumstances such as these the transfer application is facilitated if supported by a certified copy of the agreement between the merchant and the agent. When entering upon new agreements of this type, exporters should get an extra copy of the contract made so that it can go to the bank in support of applications to transfer commission payments. The exporter should also remember, when drawing up the contract, that if the regulations require transfers to be made in sterling only to the agent's country (i.e. when there is no option to transfer in the currency of the country) then the commission clause must be worded in conformity. Finally, however much the exporter may trust the agent—or, saying it another way, however much he might like to leave various odd matters to be amicably thrashed out as they arise—it is better and safer to define very clearly just what the exporter

undertakes in respect of commission, various expenses, and other disbursements primarily undertaken by the agent.

(2) For the second example, suppose a manufacturer has appointed a sole distributor in a foreign country and has agreed upon a joint publicity scheme to establish or maintain the sales of the product in the market. Here again, proper documentation is needed when applying to transfer the funds due to the distributor for local advertising. Suppose the arrangement is that the distributor shall spend, in a certain period, up to 5 per cent of turnover at F.O.B. prices, the manufacturers' usual practice is to require production of the receipted invoices of the advertising agents employed to place the announcements in the press, or on the radio or cinema screen, or the receipts of the newspapers, etc., if the approach is made direct to them.

This often presents difficulties unless requirements are properly foreseen. The distributor may be a limited company, in which case the receipted invoices for publicity disbursements will undoubtedly be required as "vouchers" when the auditors go through the company's books. The agreement between the exporter and his distributor should then contain a clause requiring the distributor to submit certified duplicates of these receipted invoices. Indeed, it would be wise to go further and demand certified triplicates as well, so that the exporter can retain the duplicates for his own audit purposes and still have a copy to go forward to the control as and when required.

Normally, exchange controls do not favour the offsetting of debts. For their purposes it is much cleaner if the exporter receives payment in full for his export. Then, afterwards, he can apply for transfer of commission, as a related matter admittedly, but as a separate exchange transfer in the opposite direction for control purposes. There is in U.K. practice an admissible manner by which agency commission can be offset, however, which saves complications for the exporter, avoids delay in receipt of commission for the agent, and saves a little in "turns on exchange." If a London merchant has

arranged to pay his agent, say, $2\frac{1}{2}$ per cent on F.O.B. price, payable immediately on settlement by the importer of the related bill of exchange, the merchant should instruct his bank to—

(*a*) Remit the bill of exchange and attached shipping documents to the oversea centre for collection by their branch or correspondent there.

(*b*) Instruct their oversea branch or correspondent that, when payment is received by them (i.e. when the bill of exchange is paid by the importer on whom it is drawn) then the merchant's named agent is to be paid a stated sum being the commission calculated, according to the agreement, at $2\frac{1}{2}$ per cent on the F.O.B. price.

(*c*) Instruct their oversea branch or correspondent that, when (*b*) has been completed, the balance is to be remitted to the London collecting bank for the credit of the merchant's account.

When this procedure is followed the merchant must remember that he does not thereby avoid the necessity for documentation supporting the agency commission payment. It inevitably shows up because of the C.D.3 procedure.

In practice, payment of commission out of bill proceeds is not always so simple as in the example given above. A complication occurs if the exporter has given his agent a limit price for sale of the goods with a promise of a share in any over-price. If the goods were offered for £500 lower limit and the agent actually sold them for £600, the merchant might have agreed to share (say 50/50—or even 40/60) in the additional £100 which would be "over-price" in usual commercial parlance. Things of this type must be foreseen as far back as the agency contract, and then again at the settlement stage for exchange control purposes. Over-price payment must be justified for official purposes, equally with the commission payment.

(*j*) **Exchange Clearings.** Although the U.K. authorities are loath to enter upon "clearing" agreements of any kind, there have been occasions when arrangements of this type appeared to offer some hope for a smoother conduct of trade and orderly

settlement. When circumstances of this type arose in the inter-war years, the Treasury gave convincing proof that they were not actuated by dogmatic adherence to general principles. In introduction it can generally be said that clearings are more a continental than a British concept; indeed it has been said of them that they are "Schachtian," which seems to have displaced "Machiavellian" as a term of opprobrium. Machiavelli held that any political means, however unscrupulous, are justifiable if they strengthen the central government of a state. Schacht used the clearing agreements between Germany and her neighbours in order to secure a flow of strategic materials before and during the war, without much regard for the real needs of the other countries or of the honest exchange policy of sending suitable products—or indeed, *any* products—in exchange.

But it is not to be supposed that exchange clearings are altogether bad because a clearing mechanism has been known to lend itself to the ends of the unscrupulous. Most of the continental clearings have honest intent and they can provide a means of exchanging exports for imports when other means fail.

In general, it may be said that a "clearing" exists when two countries agree to pass settlement for trade debts through special offices set up for the purpose, and not otherwise. If the two contracting states have found in the past that their exchange controls have had the effect of restricting trade, and more especially if price levels at controlled rates have moved out of alignment, then a clearing mechanism may provide a sort of barter of their products offering better scope for trade.

There is a possible complication to be remembered before we proceed to examine how a clearing works: when the arrangement refers to trade it is a clearing. However, it is seldom possible to set off from a datum line with no debts due on balance from one contracting state to the other. Usually, then, the arrangement will include provision for orderly liquidation of an outstanding balance one way or the other, including capital accounts as well as current ones, and the

agreement should then properly be styled a "clearing *and payments* agreement." For our present purposes it is proposed to deal with trade transactions only, so this distinction—though worth brief note—does not call for extended examination.

During part of the inter-war period, a clearing was in force between the United Kingdom and Italy. The clearing office in London received payment of all debts, as they became due, in respect of U.K. imports of goods of Italian origin. Such imports were required to be invoiced and paid for in sterling pounds. Instead of remitting the amount to Italy, the importer paid it into the Bank of England for account of the Controller of the Anglo-Italian Clearing, using a special lodgment form for the purpose. Conversely, Italian importers of goods of U.K. origin were required to pay the special exchange control body charged with receipt of such funds. Though U.K. exports were invoiced in sterling, the debtor paid in lire. The exchange rate was fixed by the clearing authorities and published daily in the financial papers.

The clearing offices in the two countries then exchanged statements and offset balances. This released funds on both sides. On the Italian side there was a balance in lire, and (also received meanwhile) a list of the payments in sterling by U.K. importers during the period. The lire balance provided a source from which the Italian exporters could receive settlement of what was owing to them. Conversely, the controller of the clearing in London had pounds in hand, and a batch of advices from Italy showing what had been paid by Italian importers of U.K. products, thus permitting the controller to pay out what was owing in pounds to the U.K. exporters.

In practice, the debts and the advice notes tend to get out of step. If Italy had more to pay in sterling debts than the controller had on his account at the Bank of England, then the controller had to keep some U.K. exporters waiting their turn to be paid out. Apart from delays in exchanging paper work, and the charges made by the clearers (which were neither matters of very great moment) it was found that the Italians

owed more than they had to receive. There was no automatic corrective, such as would have occurred by a transfer of gold under gold standard conditions, and no movement in the exchange rate as a result of the forces of supply and demand such as would have occurred under free-exchange market conditions. The system was by no means ideal, therefore, because U.K. exporters were kept waiting pending increased Italian goods being imported into the country, and these always failed to catch up. The U.K. exporter was left for weeks or months with his funds tied up in the clearing. The Export Credits Guarantee Department invented an apt term for the hazard that this would occur: they christened it "the frozen asset risk."

However large an exporting firm may be, to remain solvent and profitable it must necessarily maintain a certain rate of turnover for its floating capital. Consequently, the freezing of its assets in a clearing is a serious matter, and when this occurs on any scale it also handicaps the export programme of the creditor country. It seems almost inevitable that it should occur, however, from the very conditions which have so often preceded the setting up of the clearings in which this country has had to concur. It is for this reason that British opinion tends to regard any clearing proposal with disfavour.

Barter Arrangements

These are usually contracts to pay for a specific import by a specific export without the intervention of any monetary transaction. This reversion to a primitive swapping of goods is a somewhat retrograde step by which modern civilization admits its failure in the important matter of exchange.

"Compensation trade," as barter is called officially, also occurred in the case of German imports and exports. The Germans invented a system of "Aski marks" in order to measure the value of the two lots of goods by some common denominator. Although there was no barter with this country, German trade, particularly with South America, was carried on by this method, very often by banking intervention. A

non-German bank which saw an opportunity of bringing together some of their customers who wished to export to Germany and others who desired to import from her, was geographically either—

(*a*) Domiciled in the country from which the exports originated and in which the imports were to be consumed; or

(*b*) Outside the countries of origin and destination; this occurred with British banks (particularly merchant banks) who had a clientele amongst firms engaged in "transit trade" (examples in general world trade: Indian jute going to Belgium, soya beans from Manchukuo to Holland, and Brazilian coffee which was finally consumed in Scandinavia).

According to the location of the bank or merchant instigating barter trade with Germany, so the relative marks in the German accounts were classed as—

(*a*) "ASKI," which is short for "*A*usländer-*S*onder *K*onto fur *I*nlandszahlungen," i.e. Foreigners' Special Accounts for Payments in Germany; or

(*b*) "Transit ASKI" where the business was initiated from a third centre engaged in transit trade. Normally, transit Aski was only applicable where a non-German bank intervened.

The following is a brief example of the possible inauguration and operation of an ASKI-mark account by a South American bank which saw an opportunity of facilitating trade between their own country and Germany.

(*a*) The bank applied to the German central bank, direct or through their Berlin agent, for a permit to open an Aski mark account to cover certain stated goods passing between the two countries. When this was obtained—

(*b*) Goods were sent from the South American country to a German buyer by an exporter who was a customer of the Aski-mark account-holding bank. Instead of being drawn upon (and thus paying the debt) by a bill of exchange, or instead of sending a "Debtor's remittance," the importer paid the amount he owed to the Berlin agent of the S.A. bank, who credited it to the Aski-mark account.

When the price of the goods was C.I.F. a German port, the

freight had to be paid to a German shipping company in order to qualify as part of the total invoice value payable to the Aski account.

Before he entered into the relative contract to purchase the goods, the buyer was required to get a special permit from the relative supervisory board. Certain types of goods were not allowed to be brought into Germany even under compensation, and the regulations were framed with the general intention of fitting in with the country's planned economic policy. In particular, goods which could be produced at home were only allowed entry if in very short supply on the home market, and even then only if there were no home production of a possible substitute.

(*c*) When goods were exported from Germany under this arrangement, the seller produced his documents to the Berlin agent of the S.A. bank whose customer was buying the merchandise. When authorized to do so by their S.A. principal the Berlin agent then paid the German seller the amount of the invoice, and charged the amount so disbursed to the Aski account. This payment was made to cover not only F.O.B. or "ex-works," "ex-store," etc., prices, but also land and sea freights charged by German transport firms.

When it proved necessary to finance the exporter to the extent of advance payment of transport charges paid to a German transport house, or if the S.A. importer bought on terms which made him responsible for those charges, then they were paid out of the Aski account even if that created an overdraft. Except in these circumstances, the account could not be overdrawn, so that it can be seen that Germany made sure she got goods from abroad before she sent others in payment under this type of trade.

Other Examples of Barter

Denmark was at one time in the inter-war period short of coffee. The price within the country tended to rise owing to bidding by dealers, factors, and preserving factories. The reason that the position was not immediately rectified by

increased imports was a general shortage of foreign exchange in the hands of Danish banks; in other words Denmark could not pay in the coffee-exporter's currency, and import licences had not been granted in view of the exchange position.

With the intention of preventing a rise in the domestic price of coffee, whilst avoiding any further strain on the exchanges, Denmark offered to send other goods in exchange, and a barter agreement was concluded whereby milk-conserves were sent to Brazil as a "Swop."

Another inter-war example comes from the Balkans. Romania desired to order armaments from Germany but was unable to provide "free exchange" in payment. She had, however, a surplus of wheat, which was being held off the world market; although this was contrary to the general export policy which they had so far pursued, the Romanian Ministry of Export granted permission for a special export of 3500 wagons of wheat in order to get the order for munitions machinery placed.

These examples could be multiplied indefinitely. No particular object would be served by giving more of them as enough has been said in the last two examples to show how simple barter can *appear* to be; and the German example has been looked at in detail to show how complex the practice can become.

Final Survey

The purpose of this last short section of the chapter is to establish a terse "drill" for exporters and importers, with the anticipation that practising export managers will skip it, but that students will find it a useful final summary. Disregarding the barter complications and reverting to more usual forms of control policy, it is clear that the exporter must take the following steps in order to make sure that all control angles have been thought of—

(*a*) Find out if it is necessary to apply for an export licence for the products he is selling abroad. If required, lodge his application. (The address of the Export Licensing Department is given in the *Board of Trade Journal.*)

(*b*) If the importer has to secure an import licence, ask him for the number; many exporters put the import licence number on the related invoice, which is good practice.

(*c*) Find out if the granting of the import licence in the oversea country conveys the automatic right to an allocation of exchange. If not, require the importer to secure the prior permit.

(It should be noted that if the trade is financed by an irrevocable credit confirmed by a London bank, precautions (*b*) and (*c*) are not necessary.)

(*d*) If exporting to a non-sterling country, the C.D.3 form and related requirements must be remembered. This applies equally, whether or not the trade is financed by bank credit.

For importers, the procedure is—

(*a*) Secure import licence as may be necessary.

(*b*) Make sure the exporter has any export licence which the regulations in his country require.

(*c*) Be prepared to meet the requirements of the U.K. Exchange Control as governing payment for imports from non-residents of sterling area. Specimens of the current forms can be obtained from the importer's bank, with advice regarding their completion.

It should be emphasized that the above is only a brief survey, omitting the details, and is intended to remind students of the matters which arise as a consequence of "controls."

When any major change is made in the U.K. exchange regulations it is usual for the Bank of England to provide the commercial banks with leaflets designed to interpret their new requirements to importers or exporters or both.

Changes in licensing regulations overseas are published in the *Board of Trade Journal*, and information is available from the Export Promotion Department of the Board of Trade.

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